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Oceans and the law of the sea

Report of the Secretary-General

Addendum

Summary

The present report provides an overview of developments relating to the implementation of the United Nations Convention on the Law of the Sea and the work of the Organization, its specialized agencies and other institutions in the field of ocean affairs and the law of the sea since the preparation of the main report on this topic (A/61/63) in February 2006. It also constitutes a report of the Secretary-General to be considered by the Meeting of States Parties to the Convention under the agenda item entitled "Report of the Secretary-General under article 319 for the information of States parties on issues of a general nature, relevant to States parties, that have arisen with respect to the Convention". The present report, which should be read in conjunction with the main report, provides information on the status of the Convention and its implementing Agreements; maritime space; international shipping activities; maritime security; protection and preservation of the marine environment; climate change; marine biodiversity; conservation and management of marine living resources; marine science and technology; and capacity-building. It also provides information concerning people at sea, the settlement of disputes and international coordination and cooperation.

* A/61/150.

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Abbreviations

FAL	IMO Facilitation Committee
FAO	Food and Agriculture Organization of the United Nations
GEF	Global Environment Facility
IAEA	International Atomic Energy Agency
ICSU	International Council for Science
IHO	International Hydrographic Organization
ILO	International Labour Organization
IMO	International Maritime Organization
IOC	Intergovernmental Oceanographic Commission of UNESCO
LEG	IMO Legal Committee
MARPOL	International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto
MEPC	IMO Marine Environment Protection Committee
MSC	IMO Maritime Safety Committee
SEAFO	South East Atlantic Fisheries Organization
SOLAS	International Convention for the Safety of Life at Sea
UNCLOS	United Nations Convention on the Law of the Sea
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	Office of the United Nations High Commissioner for Refugees
WHO	World Health Organization
WMO	World Meteorological Organization
WTO	World Trade Organization

I. Introduction

1. In compliance with the request of the General Assembly in its resolution 60/30, the present report supplements and updates the information contained in the main report of the Secretary-General on oceans and the law of the sea (A/61/63). It should be read in conjunction with the main report and with the report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its seventh meeting (A/61/156), the Report of the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction (A/61/65), the report of the sixteenth Meeting of States Parties to the Convention (SPLOS/148) and the report of the Review Conference on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (A/CONF.210/2006/15).

II. The United Nations Convention on the Law of the Sea and its implementing Agreements

A. Status of the Convention and its implementing Agreements

2. As at 28 July 2006, the number of parties to the United Nations Convention on the Law of the Sea stood at 149, including the European Community. On 27 April 2006, Viet Nam acceded to the Agreement relating to the implementation of Part XI of the Convention. Thus, at 28 July 2006, there were 123 parties to that Agreement, including the European Community. Following the ratification by Japan on 7 August 2006 and the accessions by Poland on 14 March 2006, Slovenia on 15 June 2006 and Estonia on 7 August 2006, the number of parties to the 1995 Fish Stocks Agreement[1] rose to 60, including the European Community.

B. Declarations and statements under articles 287, 298 and 310 of the Convention and article 43 of the 1995 Fish Stocks Agreement

3. On 18 April 2006, the Republic of Korea made a declaration pursuant to article 298 of UNCLOS in which it stated that, effective immediately, it "does not accept any of the procedures provided for in section 2 of Part XV of the Convention with respect to all the categories of disputes referred to in paragraph 1 (a), (b) and (c) of article 298 of the Convention". It further declared that "nothing in the ... declaration shall affect the right of the Republic of Korea to submit a request to a court or tribunal referred to in article 287 of the Convention to be permitted to intervene in the proceedings of any dispute between other States parties, should it consider that it has an interest of a legal nature which may be affected by the decision in that dispute". On 27 April 2006, Palau declared, pursuant to article 298 of UNCLOS,

[1] Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, United Nations, *Treaty Series*, vol. 2167, No. 37924.

that "it does not accept compulsory procedures entailing binding decisions relating to the delimitation and/or interpretation of maritime boundaries".

4. Upon their respective accessions to the 1995 Fish Stocks Agreement, Estonia, Poland and Slovenia declared that, as member States of the European Community, they had transferred competence to the European Community in respect of certain matters governed by the Agreement. They also confirmed the declarations made by the European Community upon its ratification of that Agreement. In addition, Slovenia made an interpretative declaration in relation to a number of issues, such as certain terms used in the Agreement, the principle of freedom of the high seas, unilateral measures, the application of article 21, and use of force as referred to in article 22.

5. On 2 May 2006, Japan nominated Soji Yamamoto and Chusei Yamada as conciliators under article 2, annex V to the Convention. On 2 June 2006, Sweden nominated Marie Jacobsson and Said Mahmoudi as arbitrators under article 2, annex VII to the Convention.

C. Meeting of States Parties[2]

6. The sixteenth Meeting of States Parties to the Convention was held in New York from 19 to 23 June 2006 under the presidency of Raymond O. Wolfe, Permanent Representative of Jamaica to the United Nations.

7. The President of the International Tribunal for the Law of the Sea introduced its 2005 annual report. He referred, inter alia, to the election of the new Vice-President of the Tribunal and the President of the Seabed Disputes Chamber, the reconstitution of the chambers and committees following the election of seven new judges at the fifteenth Meeting of States Parties, and the review of legal and judicial work carried out by the Tribunal at its twentieth session. The President highlighted the contribution of the Tribunal's jurisprudence to international law, recalling the upcoming tenth anniversary of the establishment of the Tribunal and informing the Meeting about a series of events planned to mark this anniversary. In addition, he recalled the jurisdictional basis on which a case could be brought before the Tribunal, emphasizing the main characteristics of its proceedings. The President also presented the newly published guide to the proceedings before the Tribunal, which outlines the scope of jurisdiction of the Tribunal and addresses various practical issues, including how a dispute may be submitted to the Tribunal.

8. The Meeting considered a number of financial and administrative issues relating to the Tribunal. In particular, the Meeting approved the budget for the biennium 2007-2008, amounting to €17,214,700 (see SPLOS/145). After considering the report on budgetary matters for the financial period 2005-2006 (SPLOS/138), the Meeting decided that an amount of €312,684 from the 2002 savings corresponding to the additional appropriations for 2005 would be surrendered and deducted from the assessed contributions of the States parties in accordance with regulation 4.5 of the Financial Regulations of the Tribunal (SPLOS/146). The Meeting took note of the report of the external auditors for the financial year 2004 and financial statements of the Tribunal as at 31 December 2004.

[2] For further details concerning the sixteenth Meeting of States Parties, see SPLOS/148.

(SPLOS/137). The Meeting also decided that a staff pension committee of the Tribunal should be established (SPLOS/147).

9. The Deputy to the Secretary-General of the International Seabed Authority ("the Authority") provided an overview of the work carried out by the Authority. He informed the Meeting that from 27 to 31 March 2006, the Authority had held in Kingston its eighth workshop, entitled "Cobalt-rich crusts and the diversity and distribution patterns of seamount fauna", in collaboration with the Seamounts Group of the Census of Marine Life.[3] He stated that the ninth workshop, entitled "Cobalt-rich ferromanganese crusts and seafloor polymetallic sulphides deposits: technological and economic considerations" would be held in Kingston from 31 July to 4 August 2006. He also informed the meeting of the progress of the Kaplan Project, stating that the samples obtained during the field programmes of previous years were being processed and analysed.

10. The Chairman of the Commission on the Limits of the Continental Shelf updated the Meeting on the activities of the Commission as detailed in his letter to the President of the Meeting dated 19 May 2006 (SPLOS/140).

11. The Chairman drew particular attention to issues related to the workload of the members of the Commission and the funding of their participation in the sessions of the Commission and the meetings of subcommissions, recalling that the matter had been brought to the attention of the fifteenth Meeting and that under the current arrangements, the Commission might not be in a position to perform its functions in an efficient and timely manner. The Commission had continued to discuss the issue and decided to recommend to the sixteenth Meeting a draft decision (SPLOS/140, annex) which proposed, through a draft resolution for consideration by the General Assembly, that the members of the Commission receive emoluments and expenses while performing Commission duties concerning the consideration of submissions made by coastal States on the outer limits of the continental shelf under article 76, and that such emoluments and expenses be defrayed through the regular budget of the United Nations.

12. During the debate, a number of States reaffirmed the importance of the work of the Commission and acknowledge its anticipated increased workload. It was generally agreed that the Meeting should address the situation as a matter of priority in order to ensure that the Commission could continue to perform its functions under the Convention effectively, maintaining its high level of expertise.

13. Divergent views were expressed concerning the draft decision put forward by the Commission. Whereas some representatives were open to the idea of funding the work of the Commission from the regular budget of the United Nations, others emphasized, inter alia, the need to ensure consistency with article 2, paragraph 5 of Annex II to the Convention and the importance of making greater use of the trust fund established by General Assembly resolution 55/7 to assist members of the Commission from developing States in participating in meetings of the Commission. It was also stated that any solution adopted to address the workload issues faced by the Commission should not be to the detriment of a thorough examination of submissions to the Commission.

[3] At the time of submission of this report, the report of the Workshop had not yet been issued.

14. As a result of the discussion, it was agreed that various options regarding the financing of the Commission should be explored (see SPLOS/148, para. 171). A concern was also expressed that due to the extensive time the members of the Commission might need to devote to Commission duties, high-level experts might not be willing to accept nominations for membership.

15. At the proposal of the President, the Meeting decided to carry out open-ended informal consultations on the issue and appointed Thomas Fitschen (Germany), Vice-President, as Chairman. On 23 June 2006, the Chairman presented to the Meeting a draft decision on issues related to the Commission's proposals. The Meeting adopted the draft decision without a vote (SPLOS/144).

16. In accordance with the decision taken at the fourteenth Meeting of States Parties, the report of the Secretary-General on oceans and the law of the sea (A/61/63) was presented to the Meeting. It provided the basis for an extensive debate, which is reflected in the report of the Meeting (SPLOS/148, paras. 83-96).

III. Maritime space

A. Overview of recent developments regarding State practice, maritime claims and the delimitation of maritime zones

17. *Caribbean region.* By a letter dated 15 June 2006, Mexico transmitted to the Secretariat final documents of the third plenary meeting of the Caribbean Conference on Maritime Delimitation, which was held in Mexico City from 27 to 28 September 2005 (see *Law of the Sea Bulletin* No. 61). The documents provide an overview of the proceedings of the Conference. The documents refer, inter alia, to information provided to the Conference about the advances in the delimitation process between some participating States and about legal and technical aspects of maritime boundary delimitation. Stephen Vasciannie (Jamaica) was elected as the new Chairman of the Conference.

18. *Mediterranean Sea.* On 24 and 27 February 2006, Slovenia transmitted by two notes verbales the texts of its maritime code, adopted in 2001, and two amendments thereto dated 27 February 2002 and 19 December 2003 (see *Law of the Sea Bulletin* No. 60).

19. On 15 March 2006, Italy addressed a note verbale to the Secretary-General concerning the list of geographical coordinates defining the outer limit of the ecological and fisheries protection zone of Croatia (see *Law of the Sea Bulletin* No. 60). The note by Italy referred to a note verbale dated 2 September 2005 from the Permanent Mission of Croatia to the United Nations on the same issue.

20. By a note verbale dated 12 May 2006, Italy transmitted law No. 61 of 8 February 2006 on the establishment of an ecological protection zone beyond the outer limit of the territorial sea (see *Law of the Sea Bulletin* No. 61).

B. Deposit and due publicity

21. On 27 March 2006, Lithuania deposited with the Secretary-General, in accordance with articles 16 (2), 75 (2), and 84 (2), of UNCLOS, the lists of

geographical coordinates of points, specifying the straight baselines as well as the outer limits of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of Lithuania, and a chart, as adopted by the Government of Lithuania in Resolution No. 1597 of 6 December 2004. In the note accompanying the deposit, Lithuania stated that "[T]he establishment of the sea boundaries of the Republic of Lithuania is without prejudice to the delimitation of the maritime zones with States with opposite or adjacent coasts, effected by agreement on the basis of international law" (see Law of the Sea Bulletin No. 61).

22. On 11 April 2006, Kenya deposited with the Secretary-General, in accordance with articles 16 (2) and 75 (2) of UNCLOS, two lists of geographical coordinates of points specifying the straight baselines from which the breadth of the territorial sea is measured and the outer limits of the exclusive economic zone of Kenya, together with an illustrative map, as contained in the proclamation by the President of Kenya of 9 June 2005, in respect of Kenya's territorial sea and exclusive economic zone. In the note accompanying the deposit, Kenya stated that "the Proclamation, the first and second schedules attached thereto, together with the illustrative map deposited herewith constitute an adjustment to and are in replacement of the Proclamation made by the President of the Republic of Kenya on 28 February 1979" (see *Law of the Sea Bulletin* No. 61).

C. Commission on the Limits of the Continental Shelf

23. The seventeenth session of the Commission was held at United Nations Headquarters from 20 March to 21 April 2006 (for full details see CLCS/50). The plenary of the session was held from 3 to 7 April while the periods from 20 to 31 March and from 10 to 21 April were used for the technical examination of submissions at the Geographic Information System laboratories and other technical facilities of the Division for Ocean Affairs and the Law of the Sea of the Secretariat (the Division). Three submissions, namely those of Brazil, Australia and Ireland, were simultaneously examined during the session by their respective subcommissions.

1. Consideration of the submission made by Brazil

24. The Chairman of the subcommission established to examine the submission made by Brazil reported on the work carried out during the seventeenth session. During the first week the subcommission made the first round of presentations, each of which dealt with a separate region. The delegation of Brazil provided its initial responses during the second week and committed itself to providing full responses to issues raised in the subcommission's presentations no later than 31 July 2006. Brazil had informed the subcommission that it would provide new seismic and bathymetric data prior to that date.

25. The Chairman informed the Commission that the subcommission would consider the new data during the intersessional period and at its next series of meetings, to be held from 23 August to 5 September 2006, during the eighteenth session of the Commission, and would be in a position to finalize its draft recommendations only after all responses and materials had been considered.

2. Consideration of the submission made by Australia

26. The Chairman of the subcommission established to examine the submission made by Australia reported on the work carried out during the intersessional period and the seventeenth session. He stated that the subcommission had made considerable progress in the examination of the submission of Australia. In view of the volume of work involved, the subcommission had scheduled six weeks of resumed meetings on the premises of the Division in 2006 in addition to the individual work to be done by members during the intersessional periods. The subcommission aimed to submit its final recommendations in time for them to be considered by the Commission before the next election of its members. The resumed meetings of the subcommission would be held from 28 August to 15 September 2006.

3. Consideration of the submission made by Ireland

27. The Chairman of the subcommission established to examine the submission made by Ireland reported on the work carried out during the intersessional period and the seventeenth session. The Chairman stated that the subcommission would continue its work during the eighteenth session and planned to submit its final recommendations to the Commission at the end of that session.

4. Amendments to the rules of procedure

28. The Commission continued its deliberations regarding amendments to certain provisions of its Rules of Procedure, following the concerns expressed by several delegations at the fifteenth Meeting of States Parties (see SPLOS/135, paras. 74 and 75). At the seventeenth session the Commission adopted amendments to section IV (10) of annex III to the Rules of Procedure, consisting of three new paragraphs (CLCS/50, para. 36), and also amended rule 52. The changes will be reflected in a revised version of the Rules of Procedure. The Commission recognized that the amendments might affect the time required for the consideration of submissions, given the extensive consultations envisaged with the coastal State.

5. Consequences of the projected workload of the Commission

29. The Commission also dealt with several organizational issues. In particular, it discussed the projected workload associated with the examination of the submissions expected in the coming years and noted the need to increase the number or duration of sessions convened each year. In view of the constraints on time and funding to allow members of the Commission, whose participation is financed by their Governments, to spend an increased amount of time in New York, the Commission decided to bring this issue again to the attention of the Meeting of States Parties. The Commission approved a proposal to be submitted to the Meeting of States Parties (see SPLOS/140, annex) and requested the Secretariat to assist in the distribution of the proposal in advance of the sixteenth Meeting (see also paras. 10-15 above).

6. New submissions

30. On 19 April 2006, New Zealand made its submission to the Commission through the Secretary-General. On 19 May 2006, France, Ireland, Spain and the

United Kingdom of Great Britain and Northern Ireland made a joint submission to the Commission through the Secretary-General.

31. In accordance with rule 50 of the Commission's Rules of Procedure, the Secretary-General circulated two Continental Shelf Notifications, containing the executive summaries of those submissions and all charts and coordinates indicating the proposed outer limits of the continental shelf and the relevant territorial sea baselines, to all States Members of the United Nations, including the States parties to the Convention. The executive summaries of the two submissions were made available on the website of the Commission, which is maintained by the Division. At the time of completion of the present report, the examination of the two submissions was included in the provisional agenda of the eighteenth session of the Commission.

IV. Developments relating to international shipping activities

A. Safety of passenger ships

32. The first half of 2006 was marked by a series of accidents involving mainly passenger ships, resulting in the tragic loss of life of an estimated 1,400 persons. The most serious was the foundering of the roll-on/roll-off ferry al-Salam Boccaccio 98 in the Red Sea in February 2006 with approximately 1,000 victims.[4] Most of the accidents happened off the coast of Africa and concerned ships that were not regulated by any IMO convention, because they were not engaged in international voyages. Reports indicate that some of the ships involved were passenger ships of traditional construction. Whether the number of passengers on board exceeded those allowed for safe passage is a significant factor to be considered in determining the cause of any accident involving passenger ships.

33. These accidents, recent incidents involving fires aboard cruise ships[5] and the increasing size of passenger ships — the largest is currently three times the size of the *Titanic* and can carry 4,328 passengers and 1,412 crew members[6] — have highlighted the importance of ensuring the safety of passenger ships. Passenger ships, defined by IMO as ships carrying more than 12 passengers on international voyages, must comply with all relevant IMO regulations, including those in SOLAS and the International Convention on Load Lines. In order to improve the safety of passenger ships, IMO has developed a number of new measures which are aimed at preventing accidents from occurring and changing the design of future ships so that, in the event of an accident, persons can stay on board as the ship proceeds to port. The measures, to be reflected in SOLAS chapters II and III and the International Code for Fire Safety Systems, are expected to be adopted at the eighty-second session of MSC in December 2006. Recovery arrangements for the rescue of persons at sea are to be developed by 2008. Levels of liability for the death of, or

[4] Other accidents were mentioned in the speech by the Secretary-General of IMO at the eighty-first session of MSC, see IMO document MSC 81/INF.16.

[5] A fire broke out aboard the cruise ship *Star Princess* in March while on passage between Grand Cayman and Jamaica, and there was a fire incident on board the cruise ship *Calypso* off the southern coast of the United Kingdom in May.

[6] The Royal Caribbean International *Freedom of the Seas* made its maiden voyage from Southampton, United Kingdom, to New York on 3 May 2006. See www.guinnessworldrecords.com, travel and transport, ships and submarines.

personal injury to, a passenger are currently regulated by the 1974 Athens Convention relating to the Carriage of Passengers and their Luggage by Sea and set at 46,666 Special Drawing Rights (about $68,400) per carriage. The 2002 Protocol to the Athens Convention substantially increased the levels of liability and introduced compulsory insurance, but is not yet in force.

34. With a view to enhancing the safety of ferries not regulated by any IMO convention in developing countries, IMO and Interferry are executing a joint exercise, through the IMO Integrated Technical Cooperation Programme, to identify the issues that need to be addressed (such as overcrowding, terminal management, vessel design and management, passenger-carrying arrangements, stowage, hazardous weather, crew training and certification systems), highlight obstacles that need to be overcome and propose solutions. An initial pilot project in Bangladesh, in which a variety of stakeholders and experts will be invited to participate, is expected to serve as a model for similar projects in other countries facing safety difficulties regarding ferries not regulated by any IMO convention.

B. Safety of navigation

35. When proposing a ship routing system to IMO for adoption, the submitting Government should include information on the adequacy of the state of hydrographic surveys and nautical charts in the area. All proposals for ship routing systems received by the IMO secretariat are forwarded to IHO for analysis as to the adequacy of hydrographic surveys and charting in the area. At the eighty-first session of MSC, IHO drew the attention of Governments to the possibility of seeking its assistance in obtaining the necessary hydrographic information at a very early stage in the formulation of the routing system, if they do not have such information. The IMO guidance note on the preparation of proposals on ship routing systems and ship reporting systems was amended by MSC at its eighty-first session to reflect the offer of assistance by IHO.[7]

36. At the same session MSC adopted a new traffic separation scheme, new areas to be avoided and a new mandatory ship reporting system as associated protective measures for the Canary Islands Particularly Sensitive Sea Area, as well as amendments to existing traffic separation schemes and to the area to be avoided in the Dover Strait. All measures will take effect on 1 December 2006. The Committee approved guidelines on voyage planning for passenger ships operating in remote areas for submission to the IMO Assembly at its twenty-fifth session in 2007 (see MSC 81/25, paras. 10.4-10.8 and annexes 11, 27, 28 and 29).

37. New electronic navigational charts covering the Malacca and Singapore Straits, released by the hydrographic offices of Indonesia, Malaysia and Singapore together with the Japan Hydrographic Association, will contribute to the safety of navigation and protection of the marine environment in the Straits (MSC 81/INF.3). An extensive hydrographic survey of the Straits is planned under the recently launched four-year regional marine electronic highway demonstration project, financed by GEF/World Bank,[8] so that electronic navigational charts with a scale of

[7] See IMO documents MSC Circ.1060/Add.1 and MSC 81/25, paras. 10.26-10.28.

[8] On 19 June 2006 a $6.86 million grant agreement was signed between GEF/World Bank and IMO. See "Funds agreed for marine electronic highway in Straits of Malacca and Singapore", IMO briefing 23, 26 June 2006, available at www.imo.org.

1:10,000 can be developed to cover certain important navigational areas along the length of the traffic separation scheme of the Malacca Strait. The marine electronic highway will be built upon a network of electronic navigational charts. The overall system will also include positioning systems and provide real-time navigational information like tidal and current data and meteorological and oceanographic information. The project aims to link shore-based marine information and communication infrastructure with the corresponding navigational and communication facilities aboard transiting ships, while also being capable of incorporating marine environmental management systems. The overall objectives are to enhance maritime services, improve navigational safety and security and promote marine environmental protection in the Straits.

38. The marine electronic highway will further the concept of e-navigation and thus contribute to the development of the global e-navigation strategy by IMO. The proposed global strategy, to be completed by 2008, will integrate existing and new navigational tools, in particular electronic tools, such as the automatic identification system, the long-range identification and tracking system (see paras. 66-70 below) and vessel traffic services in an all embracing system that will contribute to enhanced navigational safety while reducing the burden on the navigator.[a]

C. Implementation and enforcement

1. Flag State implementation

39. Flag States are responsible for ensuring that ships flying their flag comply with the relevant provisions of UNCLOS and other relevant conventions. While the majority of flag State administrations take this responsibility seriously, some do not, either because they lack the human, technical and financial resources needed, have difficulties administering ships operating internationally, or give insufficient political weight to the importance of flag State responsibilities and the obligation of flag States to give full effect to treaty instruments to which they are party (A/59/63, para. 212). Recent initiatives aimed at strengthening flag State control include the adoption of the Voluntary IMO Member State Audit Scheme (A/61/63, paras. 73 and 74) and the review of the effectiveness of the International Management Code for the Safe Operation of Ships and for Pollution Prevention. Also of relevance to the discussions on how to strengthen flag State control is the report of the Ad Hoc Consultative Meeting of senior representatives of international organizations on the "genuine link", held at IMO headquarters in July 2005 (A/61/160).

40. Mechanisms and areas for cooperation and collaboration between IMO and FAO on possible methods of combating illegal, unregulated and unreported fishing will be considered at the second meeting of the Joint IMO/FAO Working Group on IUU Fishing and Related Matters in 2007 (see IMO document MSC 81/25, paras. 8.19 and 8.20).

41. The Voluntary IMO Member State Audit Scheme, adopted by the IMO Assembly on 1 December 2005 (Assembly resolution A.974(24)), enables flag States to assess how effectively they implement and enforce relevant IMO convention standards by providing them with feedback and advice on their current

[a] See information on e-navigation on the IMO website at www.imo.org and in MSC 81/23/10 and MSC 81/25, paras. 23.34 and 23.37.

performance. Following an audit, flag States have the option of receiving technical assistance for the introduction of any improvements that may be found necessary. IMO has urged States to (a) volunteer to be audited, (b) nominate suitably qualified auditors and (c) nominate auditors to participate in the regional training courses planned by IMO (see MSC 81/INF.16). To date, 20 States have indicated their readiness to be audited. Of those States, Chile and Denmark have signed memorandums of understanding to initiate the audit process.[10] IMO hopes that more of its member States will follow this example and volunteer to be audited so that it can reach its target of 25 audits for the 2006-2007 biennium. The first audit will start in September 2006.

42. To date, 38 individuals have been nominated as auditors. IMO has commented that not all of these auditors meet the required qualifications for the role but that nominating States are doing their best to ensure that those auditors undertake suitable training. (For further information see IMO document C 96/6/1.) IMO has undertaken to provide training at the regional level.[11]

43. A recent assessment of the status of implementation of the International Safety Management Code[12] and its impact carried out by a group of independent experts concluded that where the Code was embraced as a positive step, tangible positive benefits were evident. However, it was suggested that compliance with the Code could be made easier by, inter alia, streamlining and reducing the associated paperwork; making greater use of technology; motivating seafarers to use the reporting and monitoring systems; increasing training; improving Code compliance monitoring; and developing performance indicators. The group recommended that further study should be undertaken at a later date to examine the impact of Code implementation on flag State safety records; the relationship between port State control and Code compliance; and whether textual changes in the Code were required to facilitate compliance.[13]

44. The "green paper" on a future maritime policy adopted by the European Commission on 7 June 2006 outlines three possible future courses of action to address substandard ships and "flags of convenience": (a) a commitment by the European Commission and its member States to support a policy to improve the performance of all flag States; (b) the urgent development of new instruments to strengthen the monitoring of international rules on the high seas and their control by port States using state-of-the-art technologies, such as global satellite navigation (Galileo); and (c) an in-depth analysis to identify ways to enhance the competitiveness of ships sailing under European flags.[14]

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[10] IMO press briefing No. 22/2006 at www.imo.org/About/mainframe.asp?topic_id=1320&offset=7.

[11] The first pilot training course was held in Slovenia from 12 to 16 September 2005. In 2006, training courses were held from 20 to 24 February in Sri Lanka, from 27 to 31 March in Ecuador, from 17 to 21 June in Egypt and from 18 to 22 September in the United Republic of Tanzania. See FC 56/6, paras. 17-20.

[12] The Code is described in A/53/456, paras. 221-223.

[13] See MSC 81/17/1 (report of the group of independent experts) and MSC 81/25, paras. 17.10-17.14.

[14] "Green Paper: Towards a future Maritime Policy for the Union: A European vision for the oceans and seas", available at http://ec.europa.eu/maritimeaffairs/policy_en.html#com.

2. Port State control

45. The number of conventions that provide for the inspection of ships when they visit foreign ports or offshore terminals to ensure that they meet Convention requirements, as in the case of annex IV to MARPOL (see para. 85 below), has been steadily increasing. The most recent is the Maritime Labour Convention, 2006. Implementation of the port State control regime has been facilitated by the IMO Procedures for Port State Control (IMO Assembly resolution A.787(19) as amended), and by the development of guidelines for port State control, such as the draft IMO/ILO guidelines for port State control on inspection of seafarers' working hours pursuant to ILO Convention No. 180 concerning Seafarers' Hours of Work and Manning of Ships (IMO document FSI 14/19, annex 4). The development of guidelines for port State control under the International Convention for the Control and Management of Ships' Ballast Water and Sediments is envisaged for 2008 (FSI 14/19, paras. 9.1-9.7).

46. Experience has demonstrated that port State control is most effective when conducted on a regional basis.[15] Eight regional Memorandums of Understanding on port State control have been adopted and in recent years efforts have been made to coordinate their activities to ensure the efficient use of resources and information. With this in mind, the IMO Subcommittee on Flag State Implementation, at its fourteenth session (see IMO document FSI 14/19, paras. 7.30-7.42), discussed the harmonization of port State control activities as well as the status of the Global Integrated Shipping Information Systems with respect to port State control. As regards the latter, the Subcommittee agreed that further information was needed before it could decide how such a system should be implemented. With respect to the course of action to be taken for harmonizing port State control activities, the Subcommittee discussed the development of a framework to promote harmonization at the global level. It identified the most basic and important elements of such harmonization, e.g., the ratification of all relevant conventions; a common understanding of and implementation of their provisions; compatible port State control procedures; reporting systems and standard formats; transparency of information; cooperation and efficient exchange of information between member States and Memorandums of Understanding; information exchange among port State control regimes; training of port State control officers; and revision of the training material. Regional port State control regimes were encouraged to conclude bilateral and/or multilateral arrangements in order to achieve a higher degree of harmonization. It was noted that, in some cases, interregional cooperation had taken place among certain Memorandums of Understanding, in particular for technical cooperation and the harmonization of data regarding the identity of ships that enter into member State's ports and details of inspections, deficiencies, etc.[16] To assist the process of harmonization, the Subcommittee agreed that IMO should convene IMO Port State Control Workshops and agreed upon the framework and the provisional agenda for the 2007 Workshop.

47. Several Memorandums of Understanding have identified the steps taken to strengthen and improve the enforcement of the regulatory framework for port State

[15] See section on port State control on the website of IMO at www.imo.org.

[16] For example, the joint working group of the Paris and Tokyo Memorandums of Understanding; see IMO document FSI 14/7/10.

control, particularly in relation to the protection of the marine environment.[17] For example, the Paris Memorandum of Understanding has developed a common training programme and code of conduct for port State control officers (see FSI 14/7/4) and several Memorandums of Understanding have established timetables for further concentrated inspection campaigns, focusing in particular on the International Safety Management Code.[18] According to the reports of several Memorandums of Understanding, the number of inspections has generally remained the same (although in some situations it has decreased slightly), while the number of detentions as a result of those inspections has decreased.[19]

D. Wreck removal

48. A draft convention on wreck removal, which has been under consideration in IMO for a number of years, is scheduled to be considered at a diplomatic conference to be held in Nairobi, from 14 to 18 May 2007. The convention will set out the rights and obligations of States and shipowners in removing wrecks, such as a sunken or stranded ship or sunken cargo, from the exclusive economic zone that may pose a hazard to navigation or a threat to the marine environment. It covers such issues as the reporting of a wreck, the determination of whether it is a hazard, the locating, marking and removal of a hazardous wreck and the associated financial liability of the registered owner, compulsory insurance or other financial security requirements to cover claims for compensation, the time limit for claims of compensation, the settlement of disputes and the relationship of the convention to other international agreements, such as UNCLOS.[20]

49. The text of the draft convention will be finalized at ninety-second session of LEG in October 2006. The outstanding issues to be resolved include the size of ships required to maintain compulsory insurance, and whether to include a provision to clarify that the draft convention does not confer any authority upon coastal States with respect to the wrecks of States which are not parties to the convention, or otherwise interfere with the rights and obligations of such States beyond what is provided under customary international law, as reflected in UNCLOS. LEG may also consider a proposal to amend the current provision on the settlement of disputes. At the ninety-first session it was proposed to include a reference to the compulsory procedures for the settlement of disputes contained in Part XV, Section 2 of UNCLOS. Although LEG decided at that session to maintain the current text, it

[17] The following Memorandums of Understanding submitted annual reports or statistics to the IMO Subcommittee on Flag State Implementation: Viña del Mar (2004), Paris (2004), Black Sea (2004 and 2005), Indian Ocean (2005), Abidjan (2004 and 2005) and Tokyo (2004 and 2005).

[18] A joint concentrated inspection campaign will be carried out from September to November 2007 by the Paris and Tokyo Memorandums of Understanding.

[19] In 2005, the Tokyo Memorandum of Understanding reported that the number of inspections had decreased slightly from 21,400 to 21,058 and the number of detentions from 6.51 per cent to 5.21 per cent (Annual report on port State control in the Asia-Pacific region 2005, available at www.tokyo-mou.org/ANN05.pdf). The 2004 report of the Paris Memorandum of Understanding noted that the number of inspections remained similar: 20,309 in 2003 and 20,316 in 2004; however, detentions for the same period decreased from 7.05 per cent in 2003 to 5.84 per cent in 2004 (www.parismou.org/upload/anrep/Paris%20MOU%20JV%202004-LR.pdf). The report for 2005 is not yet available.

[20] The text of the draft convention presented to the ninety-first session of LEG is contained in document LEG 91/3.

invited delegations to submit written proposals at the ninety-second session (see IMO document LEG 91/12, sect. C).

V. People at sea

50. The oceans can be a hostile environment for people who work on board ships and for people who use the maritime route to cross international borders clandestinely. Seafarers continue to be particularly vulnerable in cases where flag States fail to meet their international obligations. They are affected by poor working conditions, especially on sub-standard ships, abandonment, the lack of fair treatment following maritime accidents, inability to obtain shore leave and access to ports (see para. 65 below), and acts of piracy and armed robbery against ships (see para. 70 below).[21] People who use the maritime route to cross international borders clandestinely risk their lives by undertaking a perilous journey across the ocean in overcrowded or unsafe boats. Some people drown in the process, sometimes at the hands of smugglers who throw them overboard, some people are rescued by a passing ship, some are intercepted, while some manage to reach their destination. Recent action taken by the international community to address the humanitarian and other issues raised by the working conditions of seafarers and by the clandestine crossing of international borders by people by sea are presented below.

A. Seafarers

51. The Guidelines on Fair Treatment of Seafarers in the Event of a Maritime Accident (IMO document LEG 91/12, annex 2) were adopted by LEG on 27 April 2006 and by the ILO Governing Body on 12 June 2006. Seafarers are recognized in the Guidelines as a special category of worker and as requiring special protection, especially in relation to contacts with public authorities, given the global nature of the shipping industry and the different jurisdictions that they may be brought into contact with. The objective of the Guidelines is to ensure that seafarers are treated fairly following a maritime accident and during any investigation and detention by public authorities and that they are detained no longer than necessary. The Guidelines contain separate guidelines for the port or coastal State; for the flag State, for the "seafarer State" (the State of nationality of the seafarer); for shipowners, and for seafarers. They provide that "investigation of a maritime accident should not prejudice the seafarer in terms of repatriation, lodging, subsistence, payments of wages and other benefits and medical care, which should be provided at no cost to the seafarer by the shipowner, the detaining State or an appropriate State".

52. In the Legal Committee discussions, one delegation emphasized the need to address concerns that would prevent States from adopting the Guidelines as presently drafted. To that end, it proposed the inclusion of a clear statement that the Guidelines would not apply following incidents committed with criminal intent; a clearer definition of "maritime accident"; and a clear statement that the Guidelines

[21] A recent study of problems facing seafarers and fishers was made by the International Transport Workers' Federation. "Out of sight, out of mind: Seafarers, Fishers and Human Rights", June 2006.

should be interpreted and applied in conformity with a State's domestic law (see LEG.91/13, sect. E).

53. The resolution adopting the Guidelines (LEG.3(91)) invited States to implement them as of 1 July 2006 and established an ad hoc working group to review the Guidelines and to make recommendations, if deemed necessary.

B. International migration of people by sea

54. There are no global statistics regarding the number of people who use the maritime route to cross international borders clandestinely, normally assisted by smugglers who do not care about the welfare of the people concerned. Thousands of people have been arriving by boat from Africa in Spain's Canary Islands.[22] Many people are also crossing by boat from Somalia to Yemen.[23] Figures released by three Mediterranean countries and cited in press reports indicate that during the first six months of 2006, 1,200 people arrived in Malta, 500 were received each week by Greece and 9,500 reached the Italian island of Lampedusa.[24] The number of people who die at sea is not known, but is estimated to be very high since many try to make the perilous journey in overcrowded or unsafe boats. For example, those who travel from central and sub-Saharan Africa to the Canary Islands make a 500-mile journey crammed in very small open fishing boats.[25]

55. The master of any ship who sees persons in distress at sea must rescue them. This is not only a humanitarian requirement, but reflects a long-standing maritime tradition which is codified in UNCLOS, SOLAS and the International Convention on Maritime Search and Rescue. The duty of the master to rescue has now been complemented, by virtue of the entry into force on 1 July 2006 of amendments to the latter two conventions,[26] by an obligation for parties to those conventions to coordinate and cooperate to ensure that masters of ships are released from their obligations with minimum deviation from the ship's intended voyage. The State responsible for the search and rescue region in which assistance was rendered must exercise primary responsibility for ensuring that such coordination and cooperation occurs, so that survivors are disembarked from the assisting ship and delivered to a place of safety.

56. The disembarkation of persons rescued at sea has proven problematic in some cases. For example, after 51 persons were rescued on 14 July 2006 by the *Francisco Catalina*, a Spanish fishing vessel, it was one week before 48 of them could disembark in Malta, although three had been allowed to disembark earlier. Under a

[22] Most of the arrivals are from central and sub-Saharan Africa. "As thousands risk their lives at sea to reach Europe, UNHCR calls for a broad joint response to deal with the challenge", UNHCR News Stories (www.unhcr.org), 24 May 2006. Spanish authorities say that over 15,000 persons have crossed clandestinely to Spain's Canary Islands since the beginning of 2006 (Radio France Internationale, 14 August 2006).

[23] Some 241 boats arrived in Yemen from Somalia between September 2005 and April 2006. "More than 3000 Somalis, Ethiopians are smuggled into Yemen — UN refugee agency", United Nations News (www.un.org/news), 16 May 2006.

[24] "Bloc at odds on illegal sea migration", *The New York Times*, 25 July 2006.

[25] UNHCR, note 22 above.

[26] Amendments to SOLAS and the International Convention on Maritime Search and Rescue were adopted on 20 May 2004 by resolutions MSC.153(78) and MSC.155(78), respectively. IMO also adopted Guidelines on the Treatment of Persons Rescued at Sea by resolution MSC.167(78).

burden-sharing arrangement in which the European Commission played a key role, most of the people were transported to Spain by aeroplane and Andorra, Italy and Malta offered to take the remaining people.[27]

57. Potential problems of disembarkation are not the only disincentive for masters to rescue persons in distress at sea; fines imposed on shipowners have the same effect. At the thirty-third session of FAL, it was contended that the practice of imposing fines when passengers are found inadmissible on the basis of inadequate documentation had become so prevalent that it should be codified in the form of an amendment to the Convention on Facilitation of International Maritime Traffic.[28] FAL agreed with such an approach but underlined that the provisions should not go so far as to make fines mandatory and that the fines, if and where applied, need to be reasonable and proportionate to the degree of responsibility shared by the shipowners. The proposed draft amendments will be further considered at the thirty-fourth and thirty-fifth sessions of FAL.[29]

58. The large number of people who put their lives at risk crossing the ocean, the rising death toll, the exploitation of people by smugglers, the challenges faced by the coastal States as a result of the repeated arrivals of mixed groups of migrants, asylum-seekers and refugees, the protection needs of asylum-seekers and refugees, the problems of disembarkation faced by masters of ships and the imposition of penalties on shipping companies are some of the issues which have placed international migration by sea on the international agenda.

59. At a meeting on rescue at sea and maritime interception in the Mediterranean, held in Madrid on 23 and 24 May 2006 and organized by UNHCR with funding from the European Union, as a follow-up to the expert meeting in Athens in September 2005, participants[30] identified what they considered the key challenges in dealing with irregular maritime migration. These include addressing the root causes, addressing the humanitarian challenges; strengthening cooperation among all countries involved and pooling scarce resources, improving information, training and the technical capacity of receiving countries, and taking more effective action to bring smugglers to justice. States' representatives reiterated their collective responsibility to protect the integrity of the rescue at sea regime.

60. Although international migration by sea poses its own unique challenges, for example, in rescue at sea situations, it must be considered in the context of the broader discussions on international migration. In the period leading up to the General Assembly's high-level dialogue devoted to international migration and development in September 2006, several meetings have been held at all levels to

[27] "UNHCR welcomes positive outcome for 51 boat people of Malta", UNHCR News Stories (www.unhcr.org), 21 July 2006.

[28] Proposed amendments to the Convention were circulated in IMO document FAL 33/3/3.

[29] FAL 33/WP.1, paras. 3.12, 3.24-3.25 and 3.27.

[30] The meeting was attended by participants from Albania, Algeria, Austria (EU Presidency), Cyprus, Egypt, France, Greece, Holy See, Italy, Lebanon, Malta, Mauritania, the Netherlands, Norway, Spain, Syrian Arab Republic, Tunisia, Turkey and the United Kingdom, as well as by representatives from the European Commission, Frontex, the League of Arab States, UNHCR, the Office of the United Nations High Commissioner for Human Rights, the Division for Ocean Affairs and the Law of the Sea, IMO, the International Organization for Migration, the Council of Europe and the International Federation of Red Cross and Red Crescent Societies.

address the multifaceted issues raised by [illegible]onal migration.[31] These meetings have underlined that the management of [illegible]atory flows cannot be achieved through control measures alone; it requires a more comprehensive response that reflects the multifaceted aspects of international migration. A similar conclusion was reached last year at the second session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime (see A/61/63, paras. 86 and 87).

VI. Maritime security

61. Maritime security remains a top priority for the international community. With a regulatory framework in place to prevent and combat threats to maritime security such as terrorist acts against shipping, trafficking in weapons of mass destruction, piracy and armed robbery against ships, illicit traffic in narcotic drugs and psychotropic substances, smuggling of people, depletion of natural resources and degradation of the marine environment, the attention of the international community has focused on promoting compliance with the legal regime and addressing the challenges of implementation and enforcement. The wide range of potential threats to maritime security and their transnational character; the number of applicable legal instruments that must be implemented and enforced; extensive monitoring, control and surveillance requirements; and the high costs of enforcement operations are some of the factors that give rise to problems of implementation and enforcement. In response to the tremendous challenge of patrolling vast areas of the oceans and seas and in order to use limited resources efficiently, many States have intensified their cooperation in the area of enforcement. Progress has been made in some regions, but many developing States still require assistance with capacity-building. The present section provides information on recent efforts at the regional level aimed at strengthening cooperation among States and on recent initiatives aimed at countering threats of terrorist acts against shipping and acts of piracy and armed robbery against ships. Also of relevance to maritime security are recent efforts that have been made to strengthen flag State implementation and enforcement as described in section IV.C above.

62. A number of meetings have recently been convened at the regional and subregional level in order to strengthen cooperation among States in combating threats to maritime security (see also para. 72 below). For example, the second Sea Power for Africa Symposium was held in Abuja from 29 to 31 May 2006 to encourage cooperation among States to enhance African maritime security capabilities.[32] In particular, participants identified the need to improve policing of the waters in West Africa in order to combat piracy and armed robbery against ships.

[31] Information concerning the preparations for the high-level dialogue and the report of the Secretary-General on international migration and development (A/60/871) are available at www.un.org/esa/population/hldmigration. Information concerning some of the preparatory meetings that have been held is available on the website of the International Organization for Migration at www.un.int/iom/IOM-HLD.html#draft.

[32] The Symposium was attended by 200 delegates representing 47 countries and 13 international organizations together with the heads of many African navies. "Africa gets tough on pirates", www.news24.com, 29 May 2006.

illegal fishing and other crimes.[33] The 25 member countries of the Marine Organization for West and Central Africa (MOWCA) are in the process of obtaining the necessary financial backing and finalizing the technical details for the establishment of a joint coastguard force to fight piracy and armed robbery against ships, pollution, illegal fishing and clandestine migration. Under the integrated coastal security plan, joint patrols would be carried out along sectors of the coast with the right of hot pursuit into another member State's waters. A meeting of the organization's transport ministers is to be held in Dakar in October. It is hoped that the coastguard force will be operational by mid-2007.[34]

63. Maritime security issues, in particular the advancement of cooperation among States, were also discussed at the Asia Security Conference in June 2006.[35] Other examples of cooperation are the joint training activities conducted by Australia, Indonesia, Papua New Guinea and the Philippines to develop their enforcement capacity with regard to illegal activities such as smuggling of guns and human beings and illegal fishing.[36] Indonesia, Malaysia and Singapore have also been coordinating their efforts to enhance maritime security in the Straits of Malacca (see A/61/63, para. 95). A meeting of the States bordering the Straits and other States is to be held in Malaysia in September 2006 as a follow-up to the Jakarta meeting in September 2005 (IMO document MSC 81/25, para. 19.15). In February 2006, the United States held a meeting of countries using the Malacca and Singapore Straits, i.e., Australia, Germany, India, Japan, the Netherlands, Norway, the Philippines, the Republic of Korea and the United Kingdom, with the participation of the International Maritime Bureau and private sector representatives, to coordinate potential user State assistance to the States bordering the Straits so as to enhance safety, security and environmental protection in the Straits.[37]

64. According to the "green paper" on a future maritime policy,[34] the members of the European Union will consider the possibility of waiving their exclusive flag State jurisdiction through mutual delegation or authorization of enforcement powers in order to deal effectively with illicit traffic in narcotic drugs, smuggling of human beings, weapons of mass destruction and polluting activities. They will also consider the possibility of adopting a coordinated approach to the conclusion of ship boarding agreements with third States and the coordinated division of labour among member States, including their navies.

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[33] International Chamber of Commerce International Maritime Bureau, "Piracy and armed robbery against ships", report for the period 1 January-30 June 2006. The report can be ordered at www.icc-ccs.org/prc/piracy_rep_app0206.php.

[34] "West and central Africa plans regional coast guard", Defense News, 2 June 2006, available at www.defensenews.com; "MOWCA to create a joint coastguard force to fight piracy", Marine News, 5 July 2006, available at www.marinecadric.com/msecurity/msecurity-news00010.htm.

[35] The Conference was attended by the defence ministers of Australia, Brunei, Cambodia, Canada, China, India, Indonesia, Japan, Malaysia, Mongolia, Myanmar, New Zealand, Pakistan, the Philippines, the Republic of Korea, Singapore, Thailand, Timor-Leste, Viet Nam, the United Kingdom and the United States. Kyodo News Service, Tokyo, 3 June 2005.

[36] *The National* (Port Moresby), 20 December 2005.

[37] "Maritime Security in the East Asia and Pacific Region", United States Department of State Fact Sheet, Bureau of Public Affairs, 21 April 2006, available at www.state.gov/r/pa/scp/2006/64956.htm.

A. Terrorist acts against shipping

65. IMO has adopted a number of measures to counter the threat of terrorist acts against shipping, the most significant being SOLAS chapter XI-2 (Special measures to enhance maritime security), the International Ship and Port Facility Security Code, and the 2005 Protocols to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (described in A/61/63, paras. 97-99). The 2005 Protocols are not in force. The need for rigorous and effective implementation of, compliance with and enforcement of the provisions of SOLAS chapter XI-2 and the Security Code by all contracting Governments was underlined by MSC at its eighty-first session in response to concerns that seafarers and others had encountered difficulties in relation to shore leave and access to ships, and concerns that some port facilities were not effectively implementing the IMO security measures (see IMO documents MSC.1/Circ. 1194 and MSC 81/25, paras. 5.66-5.71). At the thirty-third session of FAL, States supported the provision of visa information for crew members to facilitate their clearance in advance of the vessel's arrival. However, industry, however, pointed out that such a requirement violated the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185) (see IMO document FAL 33/WP.1, paras. 3.20-3.23, and A/60/63, para. 87).

66. The effective implementation of SOLAS chapter XI-2 and the International Ship and Port Facility Security Code is important for the efficacy of the system for the long-range identification and tracking of ships, adopted by IMO in May 2006 as an amendment to chapter V of SOLAS (res. MSC.202 (81) in MSC 81/25/Add.1). It is vital that States carry out proper threat assessments to determine the risk posed by individual ships.

67. The long-range identification and tracking system will not only enable States to monitor the progress of vessels and identify those that might pose a threat to maritime security, but will also aid search and rescue. The system will apply to passenger ships, cargo ships and mobile offshore drilling units. For the time being the data that a ship is required to transmit will be limited to its identity, position and the date and time that the position was recorded. However, it has been suggested that the system could be expanded in the future to provide additional data and provision has been made for this in the system's architecture.[18] While ships are permitted to switch off the system in certain limited circumstances, in the usual course of events their whereabouts will be permanently tracked. Once the information has been transmitted and processed by national, regional, cooperative and international data centres, it will be made available to contracting Governments subject to certain limitations depending on the ship's location. Contracting Governments will be permitted to receive information about ships flying their flag regardless of where those vessels are located. They will also be permitted to receive information regarding ships intending to enter their ports provided that the ships in question are not located within the "waters landward of the baselines, established in accordance with international law, of another contracting Government" (referred to as "internal waters" in UNCLOS). In cases of ships not intending to enter their ports, contracting Governments are entitled to information regarding ships

[18] MSC 81/25, para 5.78. For example, it has been suggested that MEPC could look into possible uses of the system to assist it in its work.

navigating within 1,000 nautical miles off their coast provided that the ships are not located within the waters landward of the baselines of another contracting Government, although in certain circumstances a flag State can suspend the right to this information. Contracting Governments are not entitled to receive any information regarding a ship that is located within the territorial sea of the flag State. The system does not create or affirm any new rights of States over ships beyond those already existing in international law, nor does it alter the existing legal regime applicable in the various maritime zones.

68. The flag State can only charge ships flying its flag for transmitting long-range identification and tracking information. In all other cases contracting Governments are obliged to bear the costs associated with long-range identification and tracking information requested and received. The only other entities entitled to receive such information are contracting Governments' search and rescue services, which are entitled to receive it free of charge to assist with the rescue of persons in distress at sea.

69. The amendments to SOLAS are expected to enter into force on 1 January 2008 under the tacit amendment procedure and will be phased in gradually for ships constructed before the date of entry into force, since such ships are already fitted with the automatic identification system. There is no interface between AIS and the long-range identification and tracking system. Whereas the former is a broadcast system, long-range identification and tracking equipment can be switched off and data derived through the system will be available only to targeted recipients.

70. The performance standards and functional requirements for the long-range identification and tracking system, which were adopted at the same time as the SOLAS chapter V amendments, are set out in resolution MSC.210(81), published in IMO document MSC 81/25/Add.1, annex 13. MSC agreed at its eighty-first session that national, regional and cooperative data centres should be in a position to commence the integration of ships into the long-range identification and tracking system no later than 1 October 2008 and that the international data centre and the international data exchange should commence trials and testing of the system no later than 1 July 2008 (res. MSC.211 (81) in MSC 81/25/Add.1, annex 14). MSC also agreed to establish an ad hoc working group on the engineering aspects of the system (MSC 81/25, para. 5.117) in order to enable it to consider in more detail the technical functions of the international data exchange and establish and carry out any tests of the system before 31 December 2008.

B. Piracy and armed robbery against ships

71. According to reports received by the International Maritime Bureau of the International Chamber of Commerce, 127 actual and attempted incidents of piracy and armed robbery against ships took place during the first six months of 2006, the same number as in 2005. The reports indicate that the threat to seafarers' lives remains very high: 6 were killed, 12 injured, 156 taken hostage and 13 kidnapped. The areas with the highest number of incidents were Indonesia (33), Bangladesh (22), Malaysia (9), Red Sea and Gulf of Aden area (9), Somalia (8) and Nigeria (7). Ships have been warned to stay as far as possible from the Somali coast, where ships are attacked and robbed and crew are taken hostage for ransom. Although the naval forces of some countries have stepped up their presence off the coast of Somalia, the attacks have been continuing albeit with fewer incidents.

72. In a statement by its President issued on 15 March 2006 (S/PRST/2006/11), the Security Council took note of IMO Assembly resolution A.979(24) concerning

the increasing incidents of piracy and armed robbery against ships in waters off the coast of Somalia (see A/61/63, paras. 103 and 104) and encouraged Member States whose vessels and military aircraft operate in international waters and airspace adjacent to the coast of Somalia to be vigilant to any incident of piracy therein and to take appropriate action to protect merchant shipping, in particular the transportation of humanitarian aid, against any such act in line with relevant international law. The Council welcomed the decision of the Intergovernmental Authority on Development to coordinate its strategies and action plans to face this common challenge in close collaboration with the international community. The Council further urged cooperation among all States, particularly States in the region, and active prosecution of piracy offences.

73. The General Assembly, in its resolutions on oceans and the law of the sea, has underlined the importance of cooperation among States at all levels, but in particular at the regional level, and urged States to adopt regional agreements in high-risk areas. A draft Memorandum of Understanding on regional cooperation to enhance maritime security and to combat piracy and armed robbery against ships in the Red Sea and Gulf of Aden area has been developed and is under consideration by the States concerned. In the interim Djibouti, Somalia, the Sudan and Yemen have agreed to coordinate efforts to combat piracy and armed robbery against ships.[39] Other initiatives in the region to strengthen cooperation among States include the adoption of short and long-term workplans at a regional meeting hosted by Kenya from 23 to 24 January 2006. IMO plans to hold a seminar and workshop on capacity-building to combat piracy in the East African region (see IMO documents C 96/14(a)/2 and C 96/D, para. 14(a).3).

74. While there has been a decline in the overall number of attacks in the Straits of Malacca and Singapore, with only three incidents reported in the first half of 2006 compared to eight during the same period last year, the three attacks that took place early in July 2006 against two ships that had been chartered by the World Food Programme to bring aid to Aceh province of Indonesia and a Japanese-owned bulk carrier, indicate that the Straits still remain a high-risk area. Coordinated maritime patrols have been carried out by the States bordering the Straits.

75. The efforts of the States bordering the Straits and those of other States in the Asian region to prevent and combat acts of piracy and armed robbery against ships in Asia will be strengthened by the entry into force on 4 September 2006 of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia of 2004.[40] The Agreement establishes a network of cooperation and information sharing among the maritime safety and coastguard institutions of States parties to it. Singapore will host the information-sharing centre and will convene the first meeting of the centre's governing council towards the end of 2006.[41]

76. Other regional initiatives to prevent and combat piracy and armed robbery against ships include the convening of subregional seminars in Mumbai, India, from 3 to 7 April 2006 and in Trinidad and Tobago from 24 to 28 April 2006.

[39] The draft Memorandum of Understanding was developed as a follow-up to the seminar on piracy and armed robbery against ships and maritime security held in Sana'a from 9 to 13 April 2005, for countries from the Red Sea and the Gulf of Aden area, and the meeting held in Muscat from 14 to 18 January 2006 (see MSC 81/5/5 and MSC 81/25, paras. 19.18-19.22 and annex 46).

[40] The text of the Agreement is available in *Law of the Sea Bulletin* No. 57, p. 117.

[41] Statement by the Ministry of Foreign Affairs of Singapore of 21 June 2006 available at www.wwlegal.com/index.php?name=News&file=article&sid=491.

VII. Protection and preservation of the marine environment

A. The Global Programme of Action for the Protection of the Marine Environment from Land-based Activities

77. Adopted in 1995, the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities (A/51/116, annex II) aims at assisting States in taking actions leading to the prevention, reduction, control and/or elimination of the degradation of the marine environment and to its recovery from the impacts of land-based activities such as municipal, industrial and agricultural wastes and run-off, atmospheric deposition and physical alteration of the coastal environment. The first intergovernmental review meeting of the Global Programme of Action was held in Montreal in November 2001.[42]

78. The second intergovernmental review meeting will be held in Beijing from 16 to 20 October 2006, to consider progress in the implementation of the Global Programme of Action and to identify options for strengthening its implementation through innovative financing mechanisms, the strengthening of legislative and institutional frameworks, the promotion of partnerships and the strengthening of cooperation with integrated coastal zone management initiatives. The meeting is also expected to provide practical input for the achievement of specific targets of the Johannesburg Plan of Implementation as they relate to the Global Programme of Action, the ecosystem approach and sanitation, and to define the programme of work of the UNEP Coordination Office for the Programme of Action for the period 2007-2011.[43] Partnership workshops will be held on the second day of the review meeting, on the theme "Mainstreaming the Global Programme of Action".

79. A series of events was held throughout 2005 and 2006 in preparation for the review meeting, including regional and stakeholders consultations.[44] A preparatory meeting was held in Paris from 27 to 28 June 2006 to advance the preparation of the draft official documents and seek guidance on issues to be addressed during the ministerial segment of the review meeting.[45]

80. The UNEP Coordination Office also released the *Handbook on the Development and Implementation of National Programmes of Action for the Protection of the Marine Environment from Land-based Activities*, which provides guidance for environmental managers and national policymakers in the implementation of the Global Programme of Action at the national level and outlines a framework for mainstreaming it into national policies, programmes and plans.[46]

81. From 19 to 30 June 2006, an online dialogue was held, in collaboration between the UNEP Coordination Office and the Stakeholder Forum, on the theme "Our expanding urban coast: a threat to the marine environment and human health". The dialogue aimed to explore the links between the marine environment, coastal urbanization and physical alteration and destruction of habitat, integrated management approaches, and nutrients, with a view to developing recommendations

[42] The report of the meeting was published as UNEP/GPA/IGR.1/9.

[43] For further information see www.gpa.unep.org/bin/php/igr/igr2/home.php.

[44] See www.gpa.unep.org/bin/php/igr/igr2/outreach.php and www.stakeholderforum.org.

[45] A summary of the main discussion points is available at www.gpa.unep.org/document_lib/en/pdf/final_summary_informal_preparatory_meeting.pdf.

[46] Available at www.gpa.unep.org/document_lib/en/pdf/npa_handbook.pdf.

on processes and policies to address these issues at the global, regional and national levels. The dialogue also considered the role of the Global Programme of Action in addressing these issues, and the potential role of various stakeholders.[47]

B. Pollution from ships

82. Apart from the provisions of UNCLOS, there are several IMO conventions which contain detailed rules and regulations relating to the prevention of pollution of the marine environment from ships. MARPOL regulates accidental and operational pollution from ships in six annexes; the International Convention on the Control of Harmful Anti-fouling Systems on Ships prohibits the use of harmful organotins in anti-fouling paints used on ships and establishes a mechanism to prevent the potential future use of other harmful substances in anti-fouling systems; and the International Convention for the Control and Management of Ships' Ballast Water and Sediments aims to prevent the potentially devastating effects of the spread of harmful aquatic organisms carried by ships' ballast water (see paras. 97-100 below).

1. International Convention for the Prevention of Pollution from Ships

83. Only one of the IMO conventions mentioned above is in force, namely MARPOL including its annexes I (oil), II (noxious liquid substances), III (harmful substances carried by sea in packaged form), IV (sewage), V (garbage) and VI (air pollution). Revised versions of annexes I and II were adopted in 2004 (see A/60/63, paras. 116-121) and will enter into force on 1 January 2007.[48]

84. *Annex I.* Amendments to revised annex I were adopted by MEPC at its fifty-fourth session, held from 20 to 24 March 2006, in order to include a new regulation 12A on oil fuel tank protection and to revise the definition of heavy grade oil in regulation 21.[49] The amendments are expected to enter into force pursuant to the tacit amendment procedure on 17 August 2007. A further amendment for the designation of the southern South African sea area as a Special Area under annex I was approved at the same session and is expected to be adopted at the fifty-fifth session in October 2006.[50]

85. *Annex IV.* MEPC also amended annex IV to include a new regulation 13 providing for port State control. As of 17 August 2007 (expected date of entry into force pursuant to the tacit amendment procedure) a ship, when in a port or at an offshore terminal of another State party, will be subject to inspection concerning operational requirements under the annex, where there are clear grounds for

[47] The results of the dialogue are accessible at www.stakeholderforum.org/gpa.html.

[48] As a consequence of the revisions to annex II and amendments to the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk, which are expected to enter into force on 1 January 2007, MEPC at its 54th session adopted amendments to the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk and a resolution on the early and effective application of those amendments (resolutions MEPC.144(54) and MEPC.145(54) in IMO document MEPC 54/21, annexes 5 and 6).

[49] The definition of fuel oils has been replaced with "oils, other than crude oils", thereby broadening the scope of the regulation (see resolution MEPC.141(54) in IMO document MEPC 54/21, annex 2).

[50] Ibid., annex 10.

believing that the master or crew are not familiar with essential shipboard procedures relating to the prevention of pollution by sewage.[51]

86. *Annex VI.* MEPC established a working group to consider issues relating to the prevention of air pollution from ships, including follow-up action to the IMO policies and practices related to the reduction of greenhouse gas emissions from ships (IMO Assembly resolution A.963(23)). MEPC approved two circulars aimed at assisting implementation of MARPOL annex VI: the circular on bunker delivery note and fuel oil sampling and the circular on notification to the organization on ports or terminals where volatile organic compounds emissions are to be regulated.

87. The first circular urges all member States, both parties and non-parties to the 1997 Protocol, to require fuel oil suppliers in their ports to comply with the requirements and to raise awareness of the necessity to enhance implementation and enforcement of regulation 18 of MARPOL annex VI.

88. The second circular notes that regulation 15 of MARPOL annex VI requires parties to inform IMO of their intention to introduce requirements for the use of vapour emission control systems and to notify IMO of ports and terminals under their jurisdiction where such requirements are already in force. However, many terminals are implementing or operating such practices without notification to IMO. MEPC shared the concern that, since there was no circulation of such information, it would be difficult for owners and operators to prepare for these changes at ports and terminals. The circular reiterates that parties to the 1997 Protocol are required to provide IMO without delay with information on ports and terminals under their jurisdiction at which volatile organic components emissions are or will be regulated, and on requirements imposed on ships calling at those ports and terminals. Any information received by IMO on the availability of vapour emission control systems will be circulated through MEPC circulars so that owners and operators will have up-to-date information on current and future requirements for the utilization of such systems.

89. As instructed by MEPC at its fifty-third session, the Subcommittee on Bulk Liquids and Gases will undertake a review of MARPOL annex VI and the NOx (nitrous oxide) Technical Code with a view to revising the regulations to take account of current technology and the need to further reduce air pollution from ships. The progress of this work will be reported to the next session of MEPC.

90. MEPC and its Working Group on Air Pollution had long and extensive debates on how to follow up IMO Assembly resolution A.963 (23) on IMO policies and practices related to the reduction of greenhouse gas emissions from ships. By that resolution, the Assembly urged MEPC to identify and develop the mechanisms needed to achieve the limitation or reduction of greenhouse gas emissions from international shipping. Among the items considered was whether only emission of CO_2 (carbon dioxide) or of all six greenhouse gases identified by the Kyoto Protocol should be included. MEPC agreed to consider the follow-up actions to resolution A.963 (23) from a technical and methodological perspective, to concentrate the work on CO_2 emissions, and at the next session to consider further a draft workplan to identify and develop the mechanisms needed to achieve the goal set by the IMO Assembly.

[51] Resolution MEPC.143(54) in MEPC 54/21, annex 4.

91. *Port reception facilities*. The availability of adequate port reception facilities is vital for the effective implementation of MARPOL, as recognized by the General Assembly most recently in its resolution 60/30 (see A/61/63, para. 209). IMO considered a draft action plan to improve the provision and use of adequate port reception facilities at the fourteenth session of the Subcommittee on Flag State Implementation. The Subcommittee agreed that IMO should develop a standard advance notification form for use by ships intending to use a port reception facility and a standard advance delivery notification form in order to ensure uniformity of records. It was also proposed that the port reception facility database module of the IMO Global Integrated Shipping Information System, which has been accessible to the public since 1 March 2006, be expanded to include records of reception facilities worldwide; assessments of waste reception facilities to be uploaded by the administrators of the system in each member State for their ports; and information extracted from waste management plans. Technical cooperation is envisaged for developing countries which may have difficulties in setting up and maintaining adequate reception facilities. It was furthermore proposed that IMO identify any technical problems encountered between ship and shore-based transfer of waste and review the type and amount of wastes generated on board and the capacity of port reception facilities. In that connection, it was agreed to consider how to deal with the waste downstream from reception facilities in developing countries, where ship-generated waste can often be a burden to physically restricted land systems. In response to a proposal from the South Pacific Regional Environment Programme to recognize the establishment of regional ships' waste reception centres as fulfilling the obligation of States under MARPOL to provide adequate port reception facilities (IMO document FSI 14/13/2; see also A/58/65/Add.1, para. 91), the Subcommittee agreed to the development of guidelines for establishing regional arrangements for reception facilities. Finally, the Subcommittee proposed to develop a guide to good practice on port reception facilities (FSI 14/WP.5, paras. 13.3-13.12 and annex).

2. Response to pollution incidents

92. Following the accession of Portugal on 14 June 2006, the Protocol on Preparedness, Response and Cooperation to Pollution Incidents by Hazardous and Noxious Substances will enter into force on 14 June 2007 and, together with the International Convention on Oil Pollution Preparedness, Response and Cooperation, will provide a global framework for international cooperation in combating major incidents or threats of marine pollution.[52] The Protocol requires parties to establish measures, either at the national level or in cooperation with other countries, for dealing with pollution incidents involving hazardous and noxious substances, which are defined in the Protocol as substances other than oil. Ships will be required to carry a shipboard pollution emergency plan to deal specifically with incidents involving hazardous and noxious substances. The definition of such substances in the Protocol is broader than that in the International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea. The latter Convention refers to noxious liquid substances carried in bulk referred to in appendix II of annex II to MARPOL, as

[52] A summary of the Protocol is available at www.imo.org.

amended. When the revised annex II enters into force, the Convention will refer to noxious liquid substances as defined in regulation 1.10 of the revised annex II.[53]

93. With a view to strengthening cooperation in oil spill preparedness and response, mainly at the regional and subregional levels, IMO and UNEP convened the Second IMO/UNEP Forum on Regional Cooperation in Combating Marine Pollution in London from 3 to 6 May 2006. The Forum produced a series of conclusions and recommendations to IMO, UNEP, regional seas programmes and industry on critical elements for strong regional cooperation; key elements to ensure the long-term sustainability and success of regional cooperation; ways to overcome barriers in regional cooperation; bridging gaps between partners with differing levels of capacity; cooperation between Governments and industry; engagement of relevant partners; legal frameworks; and the regional activity centres as platforms for regional cooperation.[54]

3. Particularly Sensitive Sea Areas

94. Following the adoption by the IMO Assembly of the revised guidelines for the identification and designation of Particularly Sensitive Sea Areas in 2005, MEPC decided to revise the guidance document for the preparation of Particularly Sensitive Sea Areas proposals with a view to ensuring the proper development, drafting and submission of proposals in accordance with the guidelines. The guidance document, which essentially summarizes the salient elements of the guidelines that should be included in a proposal, was approved by MEPC at its fifty-fourth session, together with a draft uniform resolution to be used by the Committee when designating Particularly Sensitive Sea Areas (MEPC 54/21, annexes 11 and 12).

95. Eleven marine areas have so far been designated as Particularly Sensitive Sea Areas by IMO (see www.imo.org/Environment/mainframe.asp?topic_id=1357), among them the "Extension of the existing Great Barrier Reef PSSA to include the Torres Strait", which had been proposed by Australia and Papua New Guinea. Resolution MEPC.133(53), which designated the latter Area in July 2005, recognizes as associated protective measures (a) the establishment of a two-way shipping route and (b) the recommendation that Governments recognize the need for effective protection of the area and inform ships flying their flag that they should act in accordance with Australia's system of pilotage for merchant ships 70 metres in length and over or oil tankers, chemical tankers and gas carriers of any size. At the time of adoption of resolution MEPC.133(53), several delegations stated that the resolution provided no international legal basis for mandatory pilotage for ships in transit in the Torres Strait or any other strait used for international navigation (see A/60/63/Add.2, para. 62). When the IMO Legal Committee discussed the issue of compulsory pilotage in a strait used for international navigation it was unable to reach agreement on the issue (see LEG 89/16, sect. O).

96. IMO Assembly resolution A.710(17), adopted in 1991 introduced a regime of recommended pilotage in the Torres Strait while resolution MEPC.45(30), adopted in 1990, addressed the system of pilotage in the Great Barrier Reef, which had been designated a Particularly Sensitive Sea Area. Australia has operated a system of compulsory pilotage within the Great Barrier Reef since 1991. It issued a marine

[53] LEG resolution LEG.4(91) in report of ninety-first session of LEG (LEG 91/12, annex 3).

[54] Regional Seas News, available at www.unep.org/regionalseas/News/default.asp.

notice in May 2006 to advise shipowners and operators that Australia and Papua New Guinea were introducing compulsory pilotage in the Torres Strait on 6 October 2006 and that it would be an offence to navigate without a pilot in the compulsory pilotage area.[55] Australia is introducing the new compulsory pilotage area in the Torres Strait for the areas under its national jurisdiction by virtue of amendments to its Navigation Act 1912 and the Marine Order Part 54.[56] The International Chamber of Shipping has expressed its concern about the way in which Australia and Papua New Guinea are introducing compulsory pilotage. The Chamber has stated that while it fully agrees that ships transiting the Strait should take a pilot, it considers it vital that this be brought about in a manner fully consistent with UNCLOS and the spirit of the agreement reached at IMO.[57]

C. Control of harmful organisms and pathogens in ballast water

97. In order to deal with problems relating to the control of harmful organisms and pathogens in ballast water, the International Convention for the Control and Management of Ships' Ballast Water and Sediments was adopted by an international conference held at IMO headquarters in London from 9 to 13 February 2004. To date, six countries (Maldives, Nigeria, Saint Kitts and Nevis, Spain, the Syrian Arab Republic and Tuvalu) have become parties to the Convention, which will enter into force 12 months after ratification by 30 States, representing 35 per cent of world merchant shipping tonnage.

98. MEPC at its fifty-fourth session addressed the issue of harmful aquatic organisms in ballast water and made progress in the development of guidelines, as called for under the Ballast Water Convention (see IMO document MEPC 54/21 and C 96/9). It also adopted, by resolution MEPC.140 (54), the guidelines for approval and oversight of prototype ballast water treatment technology programmes (G10), which cover ballast water management equivalent compliance; approval of ballast water management systems; ballast water management and development of ballast water management plans; ballast water exchange; and the procedure for approval of ballast water management systems that make use of active substances.

99. Following instructions issued by MEPC at its fifty-third session, the Ballast Water Working Group of the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection was established to review the proposals for approval of ballast water management systems that make use of active substances. On the basis of the outcome of the first meeting of the Working Group, which was held in January 2006, MEPC gave basic approval to the "Paraclean Ocean" proposal by Germany and the "Electro Clean System" proposed by the Republic of Korea. The Committee also encouraged the Working Group to continue to develop a methodology for information gathering and the conduct of work at its second meeting, which was held from 22 to 26 May 2006, and the report of which will be

[55] "Revised pilotage requirements for Torres Strait", marine notice 8/2006 issued by the Australian Maritime Safety Authority, available at www.amsa.gov.au/shipping_safety/marine_notices/2006/marine_notice_8-2006.asp.

[56] On 6 April 2006 the Parliament of Australia introduced the Maritime Legislation Amendment Act 2006 No. 24, 2006, which among other things introduces amendments to the Navigation Act 1912 and amends subordinate legislation in the form of Marine Order Part 54 (Issue 4).

[57] "Freedom of navigation?", *Mariscene* (Newsletter of the International Chamber of Shipping and the International Shipping Federation), No. 33, Summer 2006.

considered by the MEPC at its fifty-fifth session (see document GESAMP-BWWG 2/9 attached MEPC 55/2/16).

100. Finally, a review group was established at the session with the task of reviewing the status of ballast water management technologies. The Ballast Water Convention requires MEPC to review these technologies no later than three years before the first effective date for compliance set out in the Convention in order to determine whether appropriate technologies are available to achieve the standard. The review group reviewed 14 different ballast water management technologies and systems that could meet the ballast water performance standard in the Convention. MEPC decided to re-establish the review group at its fifty-fifth session to conduct further examination of technologies in accordance with regulation D-5 of the Convention.

D. Ocean noise

101. There is increasing concern among scientists and conservationists that noise pollution poses a significant and, at worst, lethal threat to whales and dolphins and other marine wildlife, including fish. A report published jointly by UNEP and the Convention on Migratory Species entitled "Review of small cetaceans: distribution, behaviour, migration and threats" found that noise pollution linked with underwater sonar and military manoeuvres are putting at risk over 4 per cent of species. In particular, the report cites three species at risk from noise pollution: the white or beluga whale; Blainville's beaked whale; and Cuvier's beaked whale or Goosebeak whale.[58]

102. The issue of ocean noise is receiving increasing attention in international forums. At its seventh meeting, held in New York from 12 to 16 June 2006, the Consultative Process agreed to recommend that the General Assembly recognize that the implementation of an ecosystem approach could be achieved through, inter alia, understanding, increased research and consideration of the impacts of underwater noise on marine ecosystems. At its thirteenth meeting (see para. 116 below), the Advisory Committee on the Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas recommended for adoption by the fifth Meeting of Parties to the Agreement a draft resolution on the adverse effects of noise, vessels and other forms of disturbance on small cetaceans, whereby the Meeting would request Parties and non-party range States that have not yet done so to introduce guidelines on measures and procedures for seismic surveys, and invite them, inter alia, to develop, with military and other relevant authorities, effective mitigation measures, including environmental impact assessments and relevant standing orders, to reduce disturbance of, and potential physical damage to, small cetaceans.[59]

[58] See UNEP press release, 23 November 2005, available at www.unep.org/Documents.Multilingual/Default.asp?DocumentID=457&ArticleID=5053&l=en.

[59] Report of the thirteenth meeting of the Advisory Committee, available at www.service-board.de/ascobans_neu/files/ac13-report.pdf.

E. Waste management: the London Convention and the 1996 Protocol

103. On 24 March 2006, the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (the London Convention), entered into force following ratification by Mexico.[60] The Protocol will supersede the 1972 Convention "as between Contracting Parties to this Protocol which are also Parties to the Convention". In practice, both instruments will be in force in parallel but the momentum will gradually shift to the Protocol as more parties ratify it. The first meeting of parties to the Protocol will take place from 30 October to 3 November 2006. The issue of parallel application of the two instruments is important for parties to UNCLOS which are required by article 210 to adopt national laws, regulations and measures that are no less effective than the global rules and standards by article 216 to enforce those laws and regulations.

104. *Key features of the 1996 Protocol*. The 1996 Protocol prohibits dumping,[61] except for materials on a list[62] that may be considered for dumping following the environmental assessment procedure set out in annex 2. The Protocol has modernized and is more restrictive than the 1972 Convention, which permits dumping to be carried out, provided that certain conditions are met according to the hazards to the marine environment presented by the materials themselves. Thus, the Protocol embodies a major change of approach on how to regulate the use of the sea as a depositary for waste materials. In addition, the Protocol introduces a number of general principles. In application of the "precautionary approach", article 3 states that as a general obligation, contracting parties are required to take "appropriate preventative measures where there is reason to believe that wastes or other matter introduced into the marine environment are likely to cause harm even when there is no conclusive evidence to prove a causal relation between inputs and their effects". In addition, the Protocol provides for the application of the polluter pays principle and for the principle of non-transference of pollution from one part of the environment to another (article 195 of UNCLOS). The Protocol emphasizes compliance and includes a transitional period provision (article 26) to assist new Parties in gradually achieving full compliance.[63]

105. *The London Convention, the 1996 Protocol and CO_2 capture and storage*. One of the first issues to be discussed under the 1996 Protocol will be CO_2 capture and storage in sub-seabed geological structures.[64] The London Convention and the

[60] Mexico ratified the Protocol on 22 February 2006. The 1996 Protocol entered into force 30 days after ratification by 26 countries, 15 of whom must be contracting parties to the 1972 Convention. See also A/61/63, paras. 220-222.

[61] Article 4 of the Protocol states that contracting parties shall prohibit the dumping of wastes or other matter with the exception of those listed in annex 1 to the Protocol.

[62] These are: dredged material, sewage sludge, fish waste or material resulting from industrial fish processing operations, vessels and platforms or other man-made structures at sea, inert, inorganic geological material, organic material of natural origin, bulky items primarily comprising iron, steel, concrete and similar unharmful materials for which the concern is physical impact, and limited to those circumstances where such wastes are generated at locations, such as small islands with isolated communities, having no practical access to disposal options other than dumping.

[63] More detailed information on the Protocol can be found at www.imo.org and www.londonconvention.org.

[64] See provisional agenda of the first meeting of contracting parties to the 1996 Protocol, to be held from 30 October to 3 November 2006, IMO document LP 1/1.

Protocol provide a global framework for the protection of the marine environment against pollution from dumping at sea and could constitute appropriate instruments to address the implications of CO_2 sequestration in the sub-seabed geological structures of the marine environment.[65] It is estimated that there is sufficient geological storage capacity to contribute to stabilization of CO_2 concentrations in the atmosphere. A significant portion of this capacity is in structures beneath the oceans, including areas where there has been exploration for oil and gas and where a good knowledge of sub-seabed geology exists.[66]

106. The 27th Consultative Meeting of parties to the London Convention acknowledged that CO_2 sequestration in sub-seabed geological structures could be a valuable tool in tackling the challenge of climate change and ocean acidification (see IMO document LC 27/16). Two working groups met in April 2006 to discuss scientific and other issues relating to CO_2 sequestration. The Scientific Group's Intersessional Technical Working Group considered the special report of the Intergovernmental Panel on Climate Change on carbon dioxide capture and storage and two reports by the Commission for the Protection of the Marine Environment of the North-East Atlantic (see para. 129 below). The Intersessional Technical Working Group recognized that CO_2 sequestration technologies have the potential to make a substantial contribution to reducing CO_2 emissions to the atmosphere, thus preventing those emissions from being absorbed into the oceans and resulting in acidification of the water, which affects the calcification process of corals and molluses that use calcium carbonate for structural purposes (see LC/SG-(CO2 1/7). The conclusions of the Intersessional Technical Working Group were taken into account by the Consultative Meeting's Legal and Related Issues Working Group on CO_2 Sequestration, which met the following week (see LC/CM-CO2 1/5).

107. The Legal and Related Issues Working Group was requested, in order to facilitate and/or regulate CO_2 sequestration, to develop options to clarify/amend the 1996 Protocol and the London Convention. A number of proposals to the Working Group identified possible amendments to annexes 1 and 2 to the Protocol. However, the Working Group could not agree on the need to develop suggestions for amendments to the London Convention to regulate CO_2 sequestration in sub-seabed geological formations (see LC 27/16, paras. 3.14, 3.17 and 3.19). Subsequently, Australia, France, Norway and the United Kingdom proposed amendments to the Protocol to permit sub-seabed carbon sequestration, which will be considered at the first meeting of contracting parties to the 1996 Protocol (see LP 1/6).

108. *London Convention Scientific Group*. The Scientific Group met from 5 to 9 June 2006 in Dalian, China. It considered the report of its Intersessional Technical Working Group and established a CO_2 Working Group to develop draft specific guidelines for the assessment of CO_2 streams into sub-seabed geological formations that would be compatible with annex 2 to the London Protocol. The CO_2 Working Group made some progress on the draft guidelines, but recommended that the work be continued by a correspondence group and another meeting of the Intersessional Technical Working Group. The Scientific Group endorsed the establishment of an intersessional CO_2 Correspondence Group, and agreed in principle to hold a two- to

[65] Report of the 27th consultative meeting of contracting parties to the London Convention, document LC 27/16, paras. 6.24 and 6.25.

[66] For more background information on carbon sequestration, its benefits and impacts, see IMO document LC/SG CO2 1/7.

three-day intersessional meeting in cooperation with the Commission for the Protection of the Marine Environment of the North-East Atlantic before the Consultative Meeting in October 2006 under the sponsorship of the Netherlands (see para. 131 below).[67]

109. The Scientific Group also discussed reports on dumping permits and how to improve reporting; technical cooperation and assistance; monitoring and assessment of the marine environment; the development of global guidance concerning "placement" of artificial reefs; coastal management issues; habitat modification and enhancement; and the disposal of fish wastes. Under the item "monitoring and assessment" the meeting established a working group on the regular process for global reporting and assessment of the state of the marine environment. On the recommendation of that working group, the Scientific Group agreed to establish an intersessional correspondence group to review the outcome of the first session of the ad hoc steering group for the "assessment of assessments" in terms of its relevance to the work of the London Convention and the 1996 Protocol and to prepare recommendations to the 28th Consultative Meeting and the first meeting of contracting parties to the 1996 Protocol.[68]

F. Ship breaking/dismantling/recycling/scrapping[69]

1. International Maritime Organization

110. At its fifty-fourth session, MEPC considered the first draft of a proposed new international instrument on ship recycling. Through the Working Group on Ship Recycling, MEPC made progress in developing the draft text of a legally binding instrument that would provide globally applicable ship recycling regulations for international shipping and for recycling activities. The proposed instrument would include articles and an annex with regulations for safe and environmentally sound recycling of ships, covering requirements for ships, recycling facilities and reporting.

111. A workplan for the further development of the draft instrument was developed by the Working Group and agreed to by MEPC with a view to finalizing it in time for consideration and adoption in the 2008-2009 biennium. A correspondence group was established to work on the draft instrument between sessions and to develop a provisional list of necessary guidelines for the next session of MEPC in October 2006.

112. In addition, MEPC considered the report of the second session of the Joint ILO/IMO/Basel Convention Working Group on Ship Scrapping, held in December 2005 in Geneva. The views of the Working Group were taken into account by the MEPC Working Group on Ship Recycling and it was noted that MEPC would continue to cooperate with ILO and the Basel Convention on the matter.

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[67] Report of the 29th meeting of the Scientific Group, IMO document LC/SG 29/15, paras. 3.1-3.18.

[68] Ibid. paras. 6.15-6.21.

[69] See report of the fifty-fourth session of MEPC in IMO document MEPC 54/21, paras. 3.1-3.24.

2. The Basel Convention[70]

113. By decision VII/26 on the environmentally sound management of ship dismantling, the seventh meeting of the Conference of the Parties to the Basel Convention, held in October 2004, requested the Open-ended Working Group of the Basel Convention to consider the practical, legal and technical aspects of the dismantling of ships in the context of achieving a practical approach to the issue of ship dismantling, to report on developments and to present any proposals on a legally binding solution, as appropriate, to the Conference of the Parties at its eighth meeting. Accordingly, at its meeting in July 2005, the Open-ended Working Group adopted decision IV/5 on environmentally sound management of ship dismantling which, among other things, established an open-ended intersessional working group to consider the issues regarding ship dismantling and to report on its work at the fifth session of the Open-ended Working Group. Participants in the group include representatives of parties to the Basel Convention and other States, intergovernmental organizations, non-governmental organizations and representatives of civil society groups.

114. At its fifth session, in April 2006, the Open-ended Working Group adopted decisions V/7 and V/8.[71] The first deals with abandonment of ships on land and in ports, requesting proposals from States, ship owners and other stakeholders on how to address the issue. The second decision sets a deadline of 30 June 2006 for the submission of (a) information that could assist stakeholders in addressing the potentially harmful consequences of ship dismantling on human health and the environment; and (b) information on pre-cleaning and decontamination. This information will be made available on the Basel Convention website.

G. Regional cooperation

1. Regional Seas Programme

115. The UNEP Regional Seas Programme, launched in 1974, continues to provide an institutional framework for regional and global cooperation on issues pertaining to the coasts, oceans and seas. Currently, the Programme covers 13 regions (Black Sea, Eastern Africa, East Asian Seas, Mediterranean, North-East Pacific, North-West Pacific, South Pacific, Red Sea and the Gulf of Aden, Regional Organization for the Protection of the Marine Environment sea area, South Asian Seas, South-East Pacific, Western and Central Africa and the wider Caribbean), each of which is supported through a regional convention or a regional action plan. The following paragraphs provide a summary of developments in the Regional Seas Programme and in specific regional seas for which information was publicly available.

116. The seventh Global Meeting of the Regional Seas was held in Helsinki from 18 to 20 October 2005. The meeting focused on the long-term sustainability of the Regional Seas Convention and Action Plans and addressed the challenges and processes involved in financing regional seas' secretariats and programme implementation. Among the issues considered as key elements for the evaluation,

[70] See also website of the secretariat of the Basel Convention at www.basel.int. The eighth meeting of the Conference of the Parties to the Basel Convention will be hosted by the Government of Kenya from 27 November to 1 December 2006 at the Office of the United Nations at Nairobi.

[71] Basel Convention document UNEP/CHW/OEWG/5/5.

development and institutional strengthening of the regional seas were the value of the ecosystem approach for sustainable tourism; a focus on human health; the need to increase private sector involvement in regional seas activities; a public awareness of regional seas programmes; and the importance of country engagement in regional seas activities.[72] The eighth Global Meeting is scheduled to be held in Beijing from 13 to 15 October 2006.

117. In order to facilitate cooperation, increased partnerships and the sharing of best practices, the UNEP Regional Seas Programme has developed a global database of all major actors and players in the field of conservation and management of the marine and coastal environment in each of the regional seas (accessible at www.unep.org/regionalseas).

118. *East Asian Seas Action Plan.* The 18th meeting of the Coordinating Body on the Seas of East Asia was held in Sanya, China, on 24 and 25 January 2006. The meeting considered a "white paper" on the new strategic direction of the Coordinating Body and agreed that it should reflect an immediate focus on national capacity-building measures and information management.

119. At the meeting, participants were also informed of developments related to the Partnership in Environmental Management for the Seas of East Asia, in particular the implementation of the Sustainable Development Strategy for the Seas of East Asia. The Sustainable Development Strategy, a regional platform for sustainable ocean development and the implementation of the Johannesburg Plan of Implementation, includes the promotion of integrated coastal management programmes to cover 20 per cent of the region's coastal areas and the development of ecosystem-based management approaches to address linkages among rivers, estuaries and adjacent coastal seas. Countries participating in the Partnership had decided to transform it from a Global Environment Facility project into a country-driven regional implementing mechanism for the Strategy.[73]

120. At a meeting held from 8 to 12 December 2003 in Putrajaya, Malaysia, environment and ocean ministers and senior officials from the Partnership's participating countries adopted the Putrajaya Declaration, which contained the Sustainable Development Strategy. The East Asian Seas Congress, to be held from 12 to 16 December 2006 in Haikou City, China, will follow up on the Putrajaya event and address pressing coastal and marine environmental issues of the region in a multidisciplinary setting. To this end, a series of events will be held during the Congress, including the ministerial forum on the implementation of the Sustainable Development Strategy, the International Conference on Coastal and Ocean Governance and the meeting of the East Asian Seas Partnership Council.[74]

121. *Mediterranean Action Plan.* The first meeting of the open-ended working group of legal and technical experts to propose appropriate rules and procedures for the determination of liability and compensation for damage resulting from pollution of the marine environment in the Mediterranean Sea area was held in Loutraki,

[72] Report of the seventh Global Meeting of the Regional Seas Conventions and Action Plans (UNEP(DEC)RS.7).

[73] Report of the eighteenth meeting of the Coordinating Body on the Seas of East Asia (UNEP(DEC)EAS IG.18/3).

[74] East Asian Seas Congress information bulletin No. 1, available at www.pemsea.org/eascongress/pdf/infobulletin.pdf.

Greece on 7 and 8 March 2006 to consider a feasibility study covering the legal, economic, financial and social aspects of a liability and compensation regime in the Mediterranean Sea and its coastal areas, and propose recommendations.[75]

122. The working group of experts designated by the contracting parties on the draft protocol on integrated coastal zone management in the Mediterranean held its first meeting in Split, Croatia from 27 to 29 April 2006 to discuss the objectives and the structure of the draft protocol and to review the proposed draft text with a view to its consideration and possible approval by the 15th meeting of the contracting parties to the Barcelona Convention and its Protocols (see UNEP (DEPI)/MED WG.287/4).

123. *Regional Environment Programme for the Red Sea and Gulf of Aden*. In collaboration with the Global Programme of Action and the Regional Environment Programme for the Red Sea and Gulf of Aden, the UNEP Regional Seas Programme published a report in January 2006 on financing for the environmental conservation of the Red Sea and Gulf of Aden. The report focuses on three financing challenges facing the Regional Environment Programme, reviews the financing mechanisms available to support environmental activities and presents methods, tools and options to strengthen the implementation of the Regional Environment Programme at the regional and national levels. The report presents the fundamentals of environmental financing, addresses financing for protection of the marine environment from land-based sources and highlights the financial constraints and prioritization of the Regional Environment Programme's action.[76]

2. Antarctic

124. The 29th Antarctic Treaty Consultative Meeting was held in Edinburgh, United Kingdom from 12 to 23 June 2006 (see www.atcm2006.gov.uk). Among its outcomes, the Meeting adopted practical guidelines for ballast water exchange in the Antarctic Treaty area (decision 2 (2006) and resolution 3 (2006), annex), to be forwarded to MEPC at its 55th session for appropriate action; a resolution on the Convention on the Conservation of Antarctic Marine Living Resources in the Antarctic Treaty System, encouraging increased cooperation at the practical level between the Antarctic Treaty Consultative Meeting and the Convention (resolution 1 (2006)); and a number of measures and resolutions on Antarctic specially managed areas, historic sites and monuments and specially protected species. The Meeting also adopted the Edinburgh Antarctic Declaration on the International Polar Year 2007-2008, which states that "polar regions are sensitive barometers of climate change" and pledges political and financial support to the International Polar Year. The Meeting confirmed that bioprospecting in Antarctica would be discussed at the next Consultative Meeting and urged consultative parties to continue to provide updates on their activities in this field. The Meeting also considered, inter alia, liability issues, safety and operations in Antarctica and tourism and non-governmental activities in the Antarctic Treaty Area.

[75] See "Report of recent MAP meetings" at www.unepmap.org/home.asp. At the time of submission of the present report, the report of the meeting was not yet available.

[76] *Regional Seas News*, available at www.unep.org/regionalseas/News/default.asp.

3. Arctic

125. *Senior Arctic officials*. Senior Arctic officials met in Syktyvkar, Russian Federation, from 26 to 27 April 2006. The meeting considered updates on the activities of the Arctic Council working groups relating to the Arctic Council action plan to eliminate pollution of the Arctic, the Arctic monitoring and assessment programme and the programme for the protection of the Arctic marine environment, and considered preparations for the International Polar Year.[77] In addition to several ongoing assessment projects and projects to reduce the release of harmful substances into the Arctic environment, preparations are under way for the Arctic marine shipping assessment. A final revised working map of 17 Arctic large marine ecosystems, which will serve as the framework for ecosystem-based management practices in the Arctic, has been prepared. Finally, a review has been undertaken of the need for amendments to the Arctic Council Regional Programme of Action for the Protection of the Arctic Marine Environment from Land-Based Activities. The objective of the review is to consider the Regional Programme of Action with a view to addressing possible additional priority source categories, taking stock of international developments since the Programme's inception, and examining its overall scope and compatibility with the stated needs of the UNEP Global Programme of Action. The marine environment working group recommended that the Regional Programme of Action be updated and broadened to continue supporting activities to address land-based pollution.

126. *Scientific expeditions*. An expedition to the Arctic region to study the impacts of pollution has been co-organized by Tara Expeditions and the Arctic Drift Project as part of the International Polar Year that begins in March 2007. The polar schooner *Tara* will conduct scientific observations and research on how the Arctic environment is changing. The two-year scientific mission, Tara Arctic 2007-2008, will provide a glimpse of human-induced climate change, the impact of persistent chemical pollution and the thinning of the ozone layer. Two years ago, the Arctic Climate Impact Assessment, an unprecedented four-year scientific study by an international team of 300 scientists, provided clear evidence that the Arctic climate is warming rapidly now and, of even greater concern, that much larger changes are projected for the future.

4. Baltic Marine Environment Protection Commission

127. At its 27th meeting, held in Helsinki on 8 and 9 March 2006, the Baltic Marine Environment Protection Commission considered the development of the Baltic Sea action plan, aimed at restoring the Baltic Sea marine environment. The meeting reviewed draft thematic assessment reports on maritime transport, eutrophication, biodiversity and nature protection, hazardous substances and climate change, and adopted core elements of the action plan, namely its vision, goals and ecological objectives related to the application of the ecosystem approach. The meeting also approved the establishment of an ad hoc task force for the development of the action

[77] See the respective progress reports at www.arctic-council.org/files/infopage/255/ACAP%20Report%20to%20SAOs,%20Syktyvkar.doc, www.arctic-council.org/files/infopage/256/AMAP%20Prog%20Rep%20SAO-April%2006.doc and www.arctic-council.org/files/infopage/242/6.5%20PAME%20report%20to%20SAOs.pdf.

plan and adopted recommendation 27/1 on the limitation of emissions into atmosphere and discharges into water from incineration of waste.[78]

128. The Commission's heads of delegation held their 19th meeting in Vilnius on 21 and 22 June 2006. They adopted a number of decisions related to the development of the Baltic Sea action plan, expected to be adopted at a ministerial meeting scheduled to take place on 15 November 2007 in Warsaw. The meeting approved a number of projects, including on the assessment of the scale of the problem and the main sources of marine litter in the Baltic, and removed a number of "hot spots" from the list of the most significant pollution sources in the Baltic Sea.[79] The "hot spots" include point sources of pollution such as municipal facilities, industrial plants, agricultural areas and rural settlements, as well as sensitive areas such as coastal lagoons and wetlands, where special environmental measures are needed.[80]

5. Commission for the Protection of the Marine Environment of the North-East Atlantic

129. The Commission for the Protection of the Marine Environment of the North-East Atlantic released two reports in March 2006. The first report, on ocean acidification, confirms that high levels of carbon dioxide (CO_2) in the atmosphere are changing ocean carbon chemistry at least 100 times faster than at any time in the last 100,000 years, and concludes with research priorities that the Commission and its members should promote. The second report, on the placement of CO_2 in sub-sea geological structures, considers the technical aspects of CO_2 capture and storage in geological structures under the seabed and concludes that guidelines or a framework for risk management for the storage of CO_2 are needed.[81]

130. The Commission held its annual meeting in Stockholm from 26 to 30 June 2006. Among other issues, it considered the issue of carbon dioxide placement in sub-seabed geological formations; a draft European marine strategy directive and the "green paper" on future European maritime policy (see paras. 44 and 64 above); issues related to radioactive and hazardous substances; environmental assessment and monitoring; eutrophication; and issues related to offshore industry, including the restoration of marine areas adversely affected by offshore activities. The Commission also considered a number of biodiversity-related issues, including ecological quality objectives; species and habitats in need of protection, conservation in areas beyond national jurisdiction; marine protected areas; assessments of the environmental impact of human activities; underwater noise and progress in the Regional Ballast Water Management Strategy for North-West Europe.

131. The Commission agreed, inter alia, to set up an intersessional correspondence group on the placement of CO_2 in sub-seabed geological formations to consider legal, technical and environmental aspects of the issue (see also paras. 105-109 above). It agreed that seamounts should be retained in the habitats section of its initial list of threatened and/or declining species and habitats. It recommended that contracting parties prioritize work on the identification and selection of marine

[78] Minutes of the 27th meeting of the Commission at http://sea.helcom.fi/dps.html.
[79] Minutes of the 19th meeting of heads of delegations at http://sea.helcom.fi/dps.html.
[80] See www.helcom.fi/projects/jcp/hotspots/en_GB/hotspots/.
[81] Commission press notice, 17 March 2006.

protected areas and that, in order to achieve the aims set out for the Commission's network of marine protected areas in recommendation 2003/3, (a) the size of the network should be increased substantially; (b) sites further offshore and especially in the contracting parties' exclusive economic zones should be selected; (c) contracting parties should begin the process of identifying and selecting sites beyond existing Natura 2000 areas; and (d) the Commission should intensify its efforts to identify sites in need of protection in areas beyond national jurisdiction. The Commission also agreed to implement the Ballast Water Management Strategy for North-West Europe as a voluntary regime to advance quickly to the next phase of the Strategy.[82]

6. Economic Commission for Europe

132. The Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention)[83] requires its parties to guarantee to all relevant stakeholders rights of access to information, public participation in decision-making and access to justice in environmental matters. Such requirements also apply to matters and processes related to the protection and preservation of the marine environment. In 2008, the parties to the Convention will review the Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums,[84] adopted at their second meeting, held in Almaty in May 2005.

VIII. Climate change

A. United Nations Framework Convention on Climate Change[85]

133. At its eleventh session by its decision 1/CP.11, the Conference of the Parties to the United Nations Framework Convention on Climate Change resolved to engage in a dialogue, without prejudice to any future negotiations, commitments, process, framework or mandate under the Convention, to exchange experiences and analyse strategic approaches for long-term cooperative action to address climate change, including, inter alia, (a) advancing development goals in a sustainable way; (b) addressing action on adaptation; (c) realizing the full potential of technology; and (d) realizing the full potential of market-based opportunities. The talks began in Bonn on 15-16 May and launched two processes: one under the 1992 Convention

[82] Summary record of the meeting (OSPAR 06/23/1-E), available at www.ospar.org.

[83] The Convention was adopted on 25 July 1998 and entered into force in October 2001. It currently has 39 parties from the ECE region, but is also open for accession by States outside the region.

[84] Annex to the report of the second meeting of the parties, ECE/MP.PP/2005/2/Add.5. A task force was established to consult with relevant international forums for this purpose. According to the Almaty Guidelines, "international forums" include "... (b) the negotiation and implementation at the international level of relevant agreements [other than multilateral environmental agreements], if decisions or actions undertaken at that level pursuant to such agreements relate to the environment or may have a significant effect on the environment; (c) intergovernmental conferences focusing on the environment or having a strong environmental component, and their respective preparatory and follow-up processes at the international level ...".

[85] See also Convention website at www.unfccc.int.

and the other under the 1997 Kyoto Protocol. The first process, called "dialogue on long-term cooperation", involved all 189 contracting parties to the Convention and addressed issues such as the link between sustainable development and climate change, adaptation to climate change, the potential of technology and the use of market-based approaches to combating climate change. The other track of talks involved the 163 parties to the Kyoto Protocol. The first session of the ad hoc working group on further commitments for annex I parties under the Kyoto Protocol was held from 17 to 25 May 2006. This body focused on further measures to be taken by industrialized countries for the period after 2012 when the first commitment period of the Kyoto Protocol ends.

134. These two sets of talks were held in addition to the regular meetings of the Subsidiary Body for Scientific and Technical Advice and the Subsidiary Body for Implementation, during which such issues as the role of deforestation in developing countries, the role of carbon capture and storage in mitigating climate change, and national communications from Parties were discussed.

135. Finally, the Bureau of the Conference of the Parties accepted the offer of the Government of Kenya to host the twelfth session of the Conference of the Parties and the second meeting of the parties to the Kyoto Protocol at the United Nations Office in Nairobi from 6 to 17 November 2006.

B. Intergovernmental Panel on Climate Change[86]

136. The Intergovernmental Panel on Climate Change is co-sponsored by WMO and UNEP. Its fourth assessment report will become available in 2007 and will provide comprehensive and up-to-date information about climate change, its causes, impacts and possible response measures based on the latest scientific, technical and socio-economic literature. The report will consist of contributions from three working groups and a synthesis report.

C. Commission on Sustainable Development[87]

137. During the high-level segment of the fourteenth session of the Commission on Sustainable Development at United Nations Headquarters in May 2006, discussions among representatives of United Nations organizations, agencies and programmes and civil society groups underscored the interconnectedness of the four themes of the session (energy, industrial development, air pollution and climate change) and the need to find means of encouraging economic growth for poverty reduction without compromising environmental sustainability.

138. As regards climate change, the Secretary-General urged countries to fulfil their commitments to climate agreements and to integrate climate change mitigation and adaptation measures into national development strategies. The representative of the United Nations Framework Convention on Climate Change stated that the impacts of climate change were being increasingly felt and acknowledged. Those impacts included sea-level rise, melting ice caps and glaciers, severe weather events, drought, flooding and warming. In his view, the energy sector had to be at the centre

[86] See also Panel website at www.ipcc.ch.

[87] See Economic and Social Council press releases ENV/DEV/897 and 898.

of any climate change strategy and any sustainable development strategy, since about 70 per cent of greenhouse gas emissions came from the production and consumption of energy. The World Bank representative said that adapting to climate change and variability was no longer a question for the future, but an imperative to avoid new economic and human disasters, which would disproportionately affect developing countries and their vulnerable populations. The business community should be an active participant in that process. Private sector investments were threatened by climate change impacts, and adaptive actions were often cost-effective.

139. *Small island developing states.* At its thirteenth session, held in April 2005, the Committee on Sustainable Development decided that it would devote one day during its review sessions to consider the implementation of the Barbados Programme of Action, focusing on that year's thematic cluster, as well as on any new developments regarding the sustainable development efforts of small island developing States. At the fourteenth session, the small island developing States day focused on a review of the Mauritius Strategy. Discussions followed the thematic cluster of the fourteenth session, including energy, industrial development, atmospheric pollution and climate change.

D. World Heritage Committee[88]

140. On 10 July 2006, the World Heritage Committee adopted recommendations on ways to respond to the threat of climate change to many World Heritage sites, such as Australia's Great Barrier Reef and Venice (Italy), in keeping with the World Heritage Convention. The Committee endorsed the recommendations of 50 international experts on climate change who had met at UNESCO headquarters in March at its request.[89] Two publications were prepared: "Predicting and managing the effects of climate change on World Heritage" and "Strategy to assist States parties to implement appropriate management responses". The Committee decided to request States parties and all partners concerned to implement the Strategy so as to protect the outstanding universal value, integrity and authenticity of World Heritage sites from the adverse effects of climate change. It decided that sites affected by climate change could be inscribed on the List of World Heritage in Danger, on a case-by-case basis, and invited a study on alternatives to the List for those sites.

141. The Committee further urged the World Heritage Centre, the advisory bodies (notably the International Council on Monuments and Sites and the World Conservation Union) and States parties to make proposals for the implementation of pilot projects at specific World Heritage properties, especially in developing countries, so as to define best practices for the Strategy. Cultural sites are also in danger because of climate change. Rising sea levels are threatening coastal sites, such as the four World Heritage sites of London. Rainfall and temperature changes can cause structural collapse, and population movements due to climate change are expected to lead to the abandonment of some sites while placing others under stress.

[88] See UNESCO World Heritage website at http://whc.unesco.org.

[89] The meeting was financed by the Government of the United Kingdom, with support from the United Nations Foundation.

142. Furthermore, the Committee requested the World Heritage Centre to prepare a policy document on the impact of climate change on World Heritage properties in consultation with experts, conservation practitioners, international organizations and civil society, to be presented to the Committee in 2007. The draft policy document should include considerations on the synergies between conventions dealing with this topic, identify research needs, address legal questions on the role of the World Heritage Convention with regard to suitable responses to climate change, and define links with other United Nations and international bodies dealing with this issue.

IX. Marine biodiversity

A. Ad Hoc Open-ended Informal Working Group

143. Pursuant to paragraphs 73 to 76 of General Assembly resolution 59/24, the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction met in New York from 13 to 17 February 2006, basing its discussions on the information contained in document A/60/63/Add.1. The meeting was jointly chaired by Juan Manuel Gomez-Robledo (Mexico) and Philip D. Burgess (Australia).

144. The Chairpersons produced a report (A/61/65) which includes a summary of the Working Group's debates and a "summary of trends" representing the Chairpersons' general understanding of the issues, possible options and approaches that emerged from the meeting. The main trends identified by the Chairpersons include the recognition of the primary role of the General Assembly in addressing the issues considered by the meeting and the essential complementary role of other organizations, processes and agreements within their respective competence; the reiteration that UNCLOS sets out the legal framework within which all activities in the oceans and seas must be carried out, while a number of other conventions and instruments complement it and together provide the current framework in this area; the need to implement the precautionary and ecosystem approaches using the best available science and prior environmental impact assessments; the need to address destructive fishing practices and illegal, unreported and unregulated fishing; the importance of area-based management tools, such as marine protected areas; the need to study and determine whether there is a governance gap in marine areas beyond national jurisdiction and to further discuss the legal status of marine biological diversity in those areas, including genetic resources; the need to enhance coordination and cooperation within and among all relevant actors; the importance of undertaking further marine scientific research in those areas and to share the knowledge from research programmes; and the recognition of wide support for continuing the process of discussions under the auspices of the General Assembly, which would decide on a course of action at its sixty-first session. The report also includes a list of studies to be undertaken, as suggested by delegations, on issues related to the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction.

B. Convention on Biological Diversity

145. The eighth meeting of the Conference of the Parties to the Convention on Biological Diversity was held in Curitiba, Brazil, from 20 to 31 March 2006.[90] The meeting adopted a number of decisions relating to marine biological diversity. By decision VIII/21, on "marine and coastal biological diversity: conservation and sustainable use of deep seabed genetic resources beyond the limits of national jurisdiction", the Conference of the Parties reiterated the recommendations adopted at the eleventh session of the Subsidiary Body on Scientific, Technical and Technological Advice in December 2005, in particular by inviting States, research institutions and other relevant organizations to make available information on research activities related to deep seabed genetic resources beyond the limits of national jurisdiction and to ensure that the results of such marine scientific research and analysis, when available, are effectively disseminated through international channels, as appropriate, in accordance with international law, including UNCLOS. It requested the Executive Secretary of the Convention on Biological Diversity, in collaboration with the Division and other relevant international organizations, to further analyse and explore options for preventing and mitigating the impacts of some activities to selected seabed habitats and to report the findings to future meetings of the Subsidiary Body. It acknowledged a preliminary range of options which parties and other States, individually or in cooperation, could utilize for the protection of deep seabed genetic resources beyond national jurisdiction, including: (a) the use of codes of conduct, guidelines and principles; and (b) reduction and management of threats, including through permits and environmental impact assessments, establishment of marine protected areas and prohibition of detrimental and destructive practices in vulnerable areas. It emphasized the need for further work in developing all of these and other options, in particular within the framework of the United Nations.

146. As regards options for cooperation for the establishment of marine protected areas in marine areas beyond the limits of national jurisdiction, by decision VIII/24, the Conference of the Parties recognized the General Assembly's central role in addressing issues relating to the conservation and sustainable use of biodiversity in marine areas beyond national jurisdiction. It reaffirmed that UNCLOS sets out the legal framework within which all activities in the oceans and seas must be carried out, and that its integrity needs to be maintained. It urged States to take urgent action to implement paragraphs 66 to 69 of General Assembly resolution 59/25, including through the review to be undertaken by the General Assembly at its sixty-first session. It noted the work and the report of the Ad Hoc Open-ended Informal Working Group (see sect. B above) and further noted possible options and approaches identified in the summary of trends prepared by the Co-Chairpersons of the Working Group, in particular for establishing marine protected areas in areas beyond national jurisdiction. It invited the General Assembly to establish a timely follow-up process to the Working Group, recognizing that the Convention on Biological Diversity has a key role in supporting the work of the General Assembly by focusing on the provision of scientific and, as appropriate, technical information and advice relating to marine biological diversity, the application of the ecosystem approach and the precautionary approach, and the attainment of the 2010 target of

[90] The report of the meeting is contained in UNEP document UNEP/CBD/COP/8/31, available at www.biodiv.org.

reducing biodiversity loss. The Executive Secretary of the Convention was requested to work with relevant governmental, intergovernmental, non-governmental, regional and scientific institutions, expert scientific processes and workshops and indigenous and local communities, where appropriate, to undertake a number of activities in this regard.

147. Also at the eighth meeting, the delegation of Mexico announced that it would hold a national workshop, in cooperation with IOC and sponsored by Australia, on criteria for the establishment of marine protected areas. The delegation of Portugal announced that it would host a scientific experts workshop of the Convention on Biological Diversity on ecological criteria and biogeographic classification systems, the report of which would be transmitted to the Secretary-General for the purpose of informing the process under the General Assembly.

148. The eighth meeting of the Conference of the Parties established a programme of work on island biodiversity (decision VIII/1), which recognizes the significance of marine biodiversity within islands, in particular in relation to tropical marine biodiversity and coral-reef hotspots. It also adopted a decision on marine and coastal biological diversity: enhancing the implementation of integrated marine and coastal management (decision VIII/22); a decision on cooperation with other conventions and international organizations and initiatives (decision VIII/16, which, inter alia, requests the Executive Secretary of the Convention on Biological Diversity to liaise with the Division); and a decision on alien species that threaten ecosystems, habitats or species: further consideration of gaps and inconsistencies in the international regulatory framework (decision VIII/27, which also addresses issues relevant to aquaculture/mariculture, ballast water and marine biofouling, particularly hull fouling).

C. Convention on International Trade in Endangered Species of Wild Fauna and Flora

149. At its twenty-second meeting, held in Lima, from 7 to 13 July 2006, the Animals Committee of the Convention on International Trade in Endangered Species of Wild Fauna and Flora reviewed the progress made and further improvements needed for the conservation and management of sharks. In particular, it examined the outcomes of the intersessional working group on the conservation and management of sharks, which addressed a number of issues relating to the implementation of shark listings, trade-related threats to sharks and the possibility of listing certain species of shark and ray (see documents AC22 Doc. 17.1, 17.2, 17.3 and 17.4, available at www.cites.org). In this regard, the Committee recommended that parties to the Convention consider the challenges of implementing non-detriment findings[91] for commercially traded marine species, and enforcement-related difficulties, when making listing proposals; improve species-specific monitoring and reporting of catch, bycatch, discards, market and international trade data; and collaborate with FAO to review or develop a five-year implementation programme for the International Plan of Action for the Conservation and Management of Sharks. It further recommended that the secretariat request case studies on the development of non-detriment findings, identification tools and

[91] Non-detriment findings are data or expert scientific opinion on the biological status of the species, which indicate that the export is not likely to be detrimental to species survival.

manuals for marine fish/shark species, with a view to contributing to the non-detriment findings workshop proposed by Mexico for 2007; prepare an analysis of the catches, production, markets, catch reporting arrangements, trade codes for shark products and export and import data for major shark fishing and trading parties, subject to funding availability; and, under the memorandum of understanding with FAO, develop and implement a joint working programme covering the areas of law enforcement, fisheries management, implementation of non-detriment findings, research and capacity-building. The Committee further recommended that parties and the secretariat promote and adopt a standardized set of commodity codes for shark products from both listed and non-listed species and adopted a number of species-specific recommendations (AC22 WG6 Doc. 1). The Committee also examined proposals to amend the appendices to the Convention in relation to sharks (AC22 Doc. 21.2, annexes 1-3).

150. A discussion paper on the biological and trade status of sea cucumbers in the families Holothuriidae and Stichopodidae (AC22 Doc. 16) was presented to the Committee, which discussed a set of recommendations, including that range States be encouraged to produce adaptive management plans for species of high conservation concern, promote regional management strategies to manage sea cucumbers and develop a standardized approach to reporting on fisheries and trade data, harmonized codes for reporting on international trade in sea cucumber products and sea cucumber identification guides (AC22 WG5 Doc. 1). The recommendations adopted by the Animal Committee will be presented at the fourteenth meeting of the Conference of the Parties to the Convention in June 2007.

X. Conservation and management of marine living resources

A. Review Conference on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (United Nations Fish Stocks Agreement)

151. The Review Conference was held in New York from 22 to 26 May 2006, in accordance with General Assembly resolution 59/25 and pursuant to article 36 of the Agreement, which requires the Secretary-General to convene a review conference to assess the effectiveness of the Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks by reviewing and assessing the adequacy of its provisions and, if necessary, proposing means of strengthening the substance and methods of implementation of those provisions in order to better address any continuing problems in the conservation and management of the two types of stocks. The report of the Review Conference (A/CONF.210/2006/15) is available at www.un.org/Depts/105.

152. Pursuant to paragraph 23 of General Assembly resolution 60/31, the fifth round of informal consultations of States parties to the Agreement, held in New

York from 20 to 24 March 2006, served as the preparatory meeting for the Review Conference.[92]

153. The Review Conference reviewed the state of implementation of the Agreement by States and by regional fisheries management organizations and arrangements, as the primary mechanism for international cooperation in the conservation and management of straddling fish stocks and highly migratory fish stocks. As a result of the review, it adopted recommendations addressed to States individually and collectively through regional fisheries management organizations to strengthen implementation of the provisions of the Agreement (see A/CONF.210/2006/15, annex). Those recommendations relate to the conservation and management of stocks; mechanisms for international cooperation and non-members; monitoring, control and surveillance and compliance and enforcement; developing States and non-parties; and keeping the Agreement under review.

154. With respect to the conservation and management of straddling fish stocks and highly migratory fish stocks, the Review Conference recommended that States commit themselves to adopt and fully implement conservation and management measures for the two types of stocks, including for currently unregulated stocks, on the basis of the best scientific evidence available and the precautionary approach. States were also requested to improve cooperation between flag States whose vessels fish on the high seas and coastal States to ensure compatibility of measures on the high seas and in areas under national jurisdiction, in accordance with article 7 of the Agreement; establish new regional fisheries management organizations, where needed, and adopt interim measures until they are established; incorporate ecosystem considerations into fisheries management; develop management tools, including closed areas, marine protected areas and marine reserves, and criteria for their implementation; reduce fishing capacity to levels commensurate with the sustainability of fish stocks; eliminate subsidies that contribute to illegal, unreported and unregulated fishing, overfishing and overcapacity; provide complete, accurate and timely catch and effort data and other fishery-related information; and submit information on deep-sea fish catches.

155. With respect to mechanisms for international cooperation and the question of non-members of regional fisheries management organizations, the Review Conference recommended that States strengthen the mandates of those organizations to implement modern approaches to fisheries management, applying the precautionary approach and an ecosystem approach to fisheries management and relying on the best scientific evidence available. States should also take measures to enhance cooperation among regional fisheries management organizations; address participatory rights in those organizations, including through developing transparent criteria for allocating fishing opportunities; promote mechanisms for encouraging non-members fishing in the area of competence of a regional organization to either join it or agree to apply its conservation and management measures; ensure that post opt-out behaviour is limited by rules that prevent opting out parties from undermining conservation measures, and that clear procedures for dispute settlement are available; improve the transparency of regional fisheries management organizations' decision-making process and allow reasonable participation of intergovernmental organizations and non-governmental organizations in their

[92] For the report of the fifth round of informal consultations, see the Division's website at www.un.org/Depts/LOS.

meetings; clarify the role of the "genuine link" in relation to the duty of flag States to exercise effective control over fishing vessels flying their flag; enhance the ability of developing States to develop their fisheries for the stocks; urge performance reviews of regional fisheries management organizations and cooperate for the development of best practices guidelines to be applied in regional fisheries management organizations in which they are members.

156. With respect to monitoring, control and surveillance and compliance and enforcement, the Review Conference recommended that States strengthen effective control over vessels flying their flag to ensure that they do not undermine conservation and management measures adopted by regional fisheries management organizations. Moreover, States were invited to strengthen compliance and enforcement schemes in all regional fisheries management organizations and enhance monitoring, control and surveillance information coordination among those organizations; restrict transhipment, in particular at-sea transhipment; adopt port State measures; participate in the International Monitoring, Control and Surveillance Network; strengthen fisheries access agreements in areas under national jurisdiction to include assistance in monitoring, control and surveillance and compliance and enforcement; assess flag State performance in fulfilling the duties set out in the Agreement; develop regional guidelines for fisheries sanctions to be imposed by flag States that ensure effective compliance and deter violations; consider the use of multilaterally agreed trade measures, consistent with the WTO rules, to promote implementation of flag States obligations; take measures, in accordance with international law, to ensure that only fish that have been taken in accordance with applicable conservation and management measures reach markets; strengthen, consistent with national law, domestic mechanisms to deter nationals and beneficial owners from engaging in illegal, unreported and unregulated fishing activities, and facilitate mutual assistance to that end; promote universal acceptance of the FAO Compliance Agreement; cooperate with FAO to develop a global register of fishing vessels; prohibit supply and refuelling vessels flying their flag from engaging in operations with vessels listed as presumed to have engaged in illegal, unreported and unregulated fishing; and ensure that all vessels fishing on the high seas carry vessel monitoring systems.

157. In addition, the Review Conference recognized that the development within regional fisheries management organizations of alternative mechanisms for compliance and enforcement in accordance with article 21, paragraph 15 of the Agreement could facilitate accession to the Agreement by some States. Such alternatives could include elements of a comprehensive monitoring, control and surveillance regime that effectively ensures compliance with the conservation and management measures adopted by the regional fisheries management organizations.

158. Furthermore, the Review Conference recommended that States adopt all necessary port State measures, particularly those in the 2005 FAO Model Scheme on Port State Measure to Combat Illegal, Unreported and Unregulated Fishing; promote minimum standards at the regional level; and in parallel initiate, as soon as possible, a process within FAO to develop, as appropriate, a legally binding instrument on minimum standards for port State measures, building on the FAO Model Scheme and the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.

159. As to participation of developing States and of non-parties to the Agreement, the Review Conference recommended that States contribute to the Assistance fund under part VII of the Agreement, or through other mechanisms, to assist developing States in all aspects of the conservation and management of straddling fish stocks and highly migratory fish stocks. States should also undertake to enhance the participation of developing States in regional fisheries management organizations and facilitate their access to fisheries for the two types of stocks; assist developing States in designing and strengthening their domestic regulatory fisheries policies and regional organizations; and promote coherence in the provision of assistance, both within individual Governments and through international mechanisms. The Review Conference urged all States with an interest in straddling fish stocks and highly migratory fish stocks that had not yet done so to become parties to the Agreement. It recommended that States exchange ideas on ways to promote further ratification of and accession to the Agreement through continuing dialogue to address concerns raised by some non-parties, particularly in respect of articles 4, 7, 21, 22 and 23.

160. Finally, in recognition of the need for further review of the implementation of the Agreement, the Review Conference agreed to continue the informal consultations of States parties to the Agreement and recommended that the Review Conference resume at a date no later than 2011.

B. North East Atlantic Fisheries Commission review

161. At the 24th annual meeting of the North East Atlantic Fisheries Commission, held from 14 to 18 November 2005, the Commission decided to establish a performance review panel in order to undertake a systematic check of the performance of the Commission and its consistency with the Convention on Future Multilateral Cooperation in the North-East Atlantic Fisheries, the 1995 Fish Stocks Agreement and other relevant international instruments. Assessment criteria and procedures for the performance review, including terms of reference for the review, were adopted by the Commission on the basis of a proposal developed by the working group on the future of the Commission. The performance criteria focused on conservation and management of fisheries resources; monitoring, control and enforcement; decision-making and dispute settlement procedures; cooperation; and the Commission in a regional and international context.

162. The first and second meetings of the Commission's performance review panel, held in London from 26 to 28 April and from 17 to 19 July 2006, identified key contextual issues, discussed factual information for each performance criteria and identified the Commission's achievements and areas for improvement in its performance. There will be a third meeting of the review panel in October to finalize the report, which will be presented to the Commission's annual meeting in November 2006.

C. Whales and other cetaceans

1. International Whaling Commission

163. The fifty-eighth annual meeting of the International Whaling Commission was held in Saint Kitts and Nevis from 16 to 20 June 2006. The Commission considered a report from its Scientific Committee on the status of a number of large and small whale stocks. Special attention was paid to the status of the endangered western North Pacific gray whale. The Commission also considered, inter alia, aboriginal subsistence whaling; progress in the Revised Management Scheme; socio-economic implications and small-type whaling; sanctuaries; special permit whaling; whale watching; small cetaceans, in particular in the Caribbean and western tropical Atlantic; and environmental and health issues, including seismic surveys and their potential effect on cetaceans and progress in the research programme to examine possible cause-effect relationships between chemical pollutants and cetaceans.

164. The Commission adopted, by 33 votes to 32 and one abstention, the Saint Kitts and Nevis Declaration, which contains a commitment to normalizing the functions of the Commission based on the terms of the International Convention for the Regulation of Whaling and other relevant international law; respecting cultural diversity and traditions of coastal peoples and the fundamental principles of sustainable use of resources; and attaining science-based policy and rule making that are accepted as the world standard for the management of marine resources. The Commission also adopted a resolution on the safety of vessels engaged in whaling and whale research-related activities.[93]

2. Cetaceans other than whales

165. Cetaceans face a wide range of threats, including direct exploitation and capture, by-catch in fisheries, habitat loss and degradation, contaminants and disturbance from increased vessel traffic.[94] Two regional agreements, concluded under the auspices of the Convention on Migratory Species, address the conservation of cetaceans: the 1991 Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas (ASCOBANS) and the 1996 Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area (ACCOBAMS).

166. The thirteenth meeting of the advisory committee for the 1991 Agreement was held in Tampere, Finland, from 25 to 27 April 2006. The advisory committee considered, inter alia, by-catch and by-catch reduction, the implementation of the Agreement's recovery plan for Baltic harbour porpoises (Jastarnia plan), the elaboration of a recovery plan for harbour porpoises in the North Sea and the possible extension of the Agreement's scope to cover all species of cetaceans occurring in the Agreement area. The advisory committee also discussed the preliminary results of the 2005 large-scale cetacean abundance survey and reviewed information on population distribution, size and structure. The fifth meeting of the

[93] International Whaling Commission press releases, available at www.iwcoffice.org/meetings/meeting2006.htm.

[94] B. M. Culik, "Review of small cetaceans: distribution, behaviour, migration and threats", compiled for the secretariat of the Convention on Migratory Species, available at www.cms.int/reports/small_cetaceans/index.htm.

parties to the Agreement will be held in Egmond aan Zee, Netherlands, from 19 to 22 September 2006.[95]

167. A workshop organized jointly by the secretariat of the 1996 Agreement and the World Conservation Union was held in Monaco from 5 to 7 March 2006 to consider the establishment of a "red list" of cetaceans in the Agreement area. The World Conservation Union's red list catalogues and highlights species at risk of global extinction. As a result of the workshop, the killer whale of the Straits of Gibraltar was listed as critically endangered; the sperm whale, short-beaked common dolphin, common bottlenose dolphin and harbour porpoise were identified as endangered; and the Mediterranean common bottlenose dolphin and striped dolphin were identified as vulnerable.[96]

XI. Marine science and technology

A. Intergovernmental Oceanographic Commission Advisory Body of Experts on the Law of the Sea

168. The sixth meeting of the IOC Advisory Body of Experts on the Law of the Sea was held in Malaga, Spain, from 3 to 7 April 2006.[97] The Advisory Body had before it a progress report on intersessional activities prepared by the IOC secretariat. The reported activities were carried out in accordance with the recommendations of the previous session and IOC Assembly resolutions XXIII-8 and 9 (see IOC-XXIII/3), which focused on the need to disseminate and promote the IOC Criteria and Guidelines on the Transfer of Marine Technology and the newly adopted procedure for the application of article 247 of UNCLOS by IOC. The secretariat reported on its progress in establishing a website for the Advisory Body (http://ioc.unesco.org/abelos/).

169. *Emerging issues*. Delegations at the sixth meeting highlighted a variety of themes of potential interest, such as the impact of increased marine scientific research on the marine environment and the issue of carbon dioxide sequestration in geological structures. Reference was also made to the Ad Hoc Informal Open-ended Working Group (see sect. A above). In that connection, it was suggested that the Advisory Body could undertake a study of modalities of operation of marine biotechnology partnerships. Recurring issues were also raised, including the need to promote transfer of marine technology and for IOC to be involved in the establishment of regional marine scientific and technological research centres (article 276 of UNCLOS).

170. *Subgroup on the legal framework within the context of UNCLOS applicable to the collection of oceanographic data*. The Advisory Body continued its discussions on the legal framework within the context of UNCLOS applicable to the collection of oceanographic data. It also heard a report from the Intergovernmental Committee for the Global Ocean Observing System, which pointed out that monitoring activities demanded long-term commitments, sustainability, timely data and a clear

[95] Report of the thirteenth meeting of the Advisory Committee, available at www.service-board.de/ascobans_neu/files/ac13-report.pdf.

[96] See www.accobams.org/2006.php/events/show/6#.

[97] The report of the meeting is contained in document IOC/ABE-LOS VI/3.

legal framework. The issue of operational oceanography continued to raise divergent views including on a definition and applicable legal regime.[98] By resolution EC-XXXIX.7, the Executive Council of IOC requested the Advisory Committee to "come up with consensual text as soon as practicable" and to continue its work in close cooperation with the Division and in consultation with the Intergovernmental Committee. The Council also endorsed the recommendations adopted at the sixth meeting of the Advisory Body, and accepted the offer of Gabon to host the next meeting of the Advisory Body.[99]

B. Global Ocean Observing System

171. *Steering Group*. At a meeting held in Copenhagen in April 2006, the International Council for Exploration of the Sea IOC Steering Group on the Global Ocean Observing System, reaffirmed that regional cooperation has a key role in the implementation of the System, in particular the coastal System. This cooperation makes best practice accessible to all countries and users. A global network of regional systems known as the regional alliances is already active in the efforts to meet coastal system goals. The third forum of regional alliances will be held in Cape Town, South Africa, in November 2006 following the Pan African Large Marine Ecosystems leadership workshop on operational oceanography and remote sensing.[100]

172. *Scientific Steering Committee*. The IOC-WMO-UNEP-ICSU Scientific Steering Committee of the Global Ocean Observing System held its ninth session in Paris from 6 to 8 March 2006.[101] The meeting addressed developments in the System, noting substantial progress in the implementation of the open ocean module and the need to foster global implementation of the coastal module. The roles and responsibilities of the System's regional alliances and mechanisms for enhancing cooperation among them were major topics of discussion. The Committee heard from, and discussed, a number of partner programmes including the IOC/WMO Joint Commission on Marine Meteorology, the Group on Earth Observations and the Integrated Global Observing Strategy. Capacity-building and outreach efforts related to the System were also discussed. The Committee noted that the two major results expected for the System during the 2006-2007 biennium were (a) increased member State contributions to operational open ocean observing systems; and (b) establishment of clear principles and guidelines for the System's regional alliances.

XII. Settlement of disputes

A. International Court of Justice

173. Cases still pending before the International Court of Justice and of relevance to the law of the sea are: *Territorial and Maritime Dispute (Nicaragua v. Colombia)*; *Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea*

[98] Ibid., paras. 3.3 and 3.4.
[99] See report of Executive Council (21-28 June 2006) in document IOC/EC-XXXIX/3.
[100] See 2006 report of the Steering Group at www.ices.dk/reports/OCC/2006/SGOOS06.pdf.
[101] See report No. 151 at www.ioc-goos.org/content/view/28/40.

(Nicaragua v. Honduras); and *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*. These cases may be consulted on the website of the Court (www.icj-cij.org) and in the report of the Court to the General Assembly at its sixty-first session.[102]

174. *Land and Maritime Boundary between Cameroon and Nigeria*. On 12 June 2006, the Presidents of Nigeria and Cameroon signed an agreement concerning the modalities of withdrawal and transfer of authority in the Bakassi Peninsula, following intensive mediation by the Secretary-General at the Greentree estate in Manhasset, New York. The two heads of State and the Secretary-General reviewed the progress achieved by the Cameroon-Nigeria Mixed Commission, and noted the advances made thus far in the implementation of the judgment of the International Court of Justice of 10 October 2002.[103]

B. International arbitration

175. *Barbados/Trinidad and Tobago*. Arbitral proceedings were initiated by Barbados against Trinidad and Tobago on 16 February 2004 pursuant to article 286 (part XV) and annex VII of UNCLOS. The Permanent Court of Arbitration acted as registry in the arbitration relating to the delimitation of the exclusive economic zone and continental shelf between the parties. The arbitral tribunal constituted in accordance with UNCLOS annex VII consisted of Stephen Schwebel (President), Ian Brownlie, Vaughan Lowe, Francisco Orrego Vicuña and Sir Arthur Watts.

176. The arbitral tribunal rendered its award on 11 April 2006. After a finding of jurisdiction to consider the parties' maritime delimitation claims, the tribunal established a single maritime boundary between Barbados and Trinidad and Tobago that differed from the boundary claimed by each of the parties. For the most part, the boundary established by the arbitral tribunal follows the equidistance line between the parties. The arbitral tribunal also held that it lacked jurisdiction to render a substantive decision regarding fisheries inside the exclusive economic zone of Trinidad and Tobago. Nonetheless, the tribunal found that the parties were under a duty to agree upon measures necessary to coordinate and ensure the conservation and development of flying fish stocks, and to negotiate in good faith and conclude an agreement according Barbados fisherfolk access to fisheries in the exclusive economic zone of Trinidad and Tobago, subject to limitations and conditions of that eventual agreement and to the right and duty of Trinidad and Tobago to conserve and manage the living resources of the waters within its jurisdiction (see www.pca-cpa.org/ENGLISH/RPC).

XIII. Capacity-building

A. Hamilton Shirley Amerasinghe Memorial Fellowship Programme

177. The recipient of the 2006 nineteenth Amerasinghe Fellowship Award, Milinda Gunetilleke, completed his research study on legal issues relating to the continental

[102] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 4* (A/61/4).

[103] See Department of Public Information press releases AFR/1395, 1396 and 1397. For a summary of the case, see A/58/65/Add.1, paras. 116-120.

shelf at the Lauterpacht Research Centre for International Law at the University of Cambridge, United Kingdom, and successfully carried out his three-month internship programme in the Division. The recipient of the twentieth award, Marvin I. Ngirutang from Palau, will commence his research/study programme on Palau's continental shelf at the University of Oxford in October 2006.[104]

B. United Nations-Nippon Foundation of Japan Fellowship Programme

178. The Programme is currently in its second year of implementation. Twenty fellowships have been awarded to individuals from as many States. The first 10 fellows, who received awards for the 2005/06 cycle, have now completed the programme and the second 10 fellows, who received awards for the 2006/07 cycle, are currently undertaking their six-month academic placements under the auspices of their respective academic host institutions. Upon completion of their placements, they will undertake the second phase of the Programme, namely the three-month research and practicum with the Division. There are currently 31 host institutions in 16 States participating in the Programme. Consultations are ongoing with others, including centres of excellence in marine science and multidisciplinary marine affairs programmes, so as to offer fellows the opportunity to undertake their research in a wide range of topics and in various languages.

179. The Programme Selection Committee will convene in October 2006 to select the next 10 awards for the 2007/08 cycle. Further information, including application forms and an up-to-date list of participating universities, is available at www.un.org/depts/los/nippon.

C. Training course to promote compliance with article 76 of the Convention

180. Pursuant to General Assembly resolutions 59/24 and 60/30, the Division has continued its capacity-building activities aimed at providing training courses to technical and administrative staff of developing coastal States regarding the delineation of the outer limits of the continental shelf beyond 200 nautical miles and the preparation of submissions to the Commission on the Limits of the Continental Shelf in conformity with article 76 of UNCLOS. These activities continue to be developed and implemented within the framework of the TRAIN-SEA-COAST Programme as described below.

181. Following the first three regional training courses, held in Fiji (see A/60/63, para. 49), Sri Lanka (see A/60/63/Add.2, para. 110) and Ghana (see A/61/63, para. 49), the Division, in collaboration with the Government of Argentina and with the support, among others, of the Commonwealth Secretariat, organized a course in Argentina from 8 to 12 May 2006. Thirty-seven technical and administrative staff of 11 developing States from the Latin American and Caribbean regions assessed to have potential for an extended continental shelf beyond 200 nautical miles (Argentina, Bahamas, Barbados, Chile, Costa Rica, Cuba, Guyana, Mexico, Suriname, Trinidad and Tobago and Uruguay) participated in the course. The

[104] For more information, see the Division's website at www.un.org/Depts/los.

training course in Argentina was the first to be held in English and Spanish and the first at which participants were provided with the finalized version of the training manual, which was available in both English and Spanish as well as on CD-ROM. The course concluded the first round of training courses organized by the Division with regard to the delineation of the outer limits of the continental shelf; the Division plans to organize additional training courses at the subregional level.

D. TRAIN-SEA-COAST Programme

182. The Division and the International Ocean Institute have signed an exchange of letters establishing a cooperative mechanism for carrying out various joint projects, including activities under the TRAIN-SEA-COAST Programme. In partnership with the Institute's global network and other partners, the Division is updating and preparing for delivery of a course on development, implementation and management of marine protected areas. the Division is also expected to develop courses on ecosystem approaches, biological diversity and maritime security in cooperation with the Programme's network of course development units, the Institute's network, the Global Programme of Action and other partners. Fund-raising activities are currently being carried out for the development and multiple deliveries of these courses, which respond to requests from developing States for assistance in those fields as expressed in various international meetings serviced by the Division.

183. The Global Programme of Action-UNESCO Institute for Water Education course development unit continued to deliver its course on improving wastewater management in coastal cities, including in Shanghai, China (July 2006), Guam (June 2006), Papua New Guinea (June 2006), Brazil (November 2005), Fiji (October 2005) and Turkey (September 2005). Since 2003, this course has been adapted and delivered 16 times, in all five regions of the world, with a total of 340 participants from 29 countries, a third of whom are women. The course is now available in Chinese, English, Spanish, Portuguese, Russian and Turkish. A resource CD-ROM for the Pacific Islands on wastewater technologies and management has also been issued.[105]

E. Trust funds

184. The present section contains information about trust funds administered by the Division, either alone or in conjunction with other entities.

1. Commission on the Limits of the Continental Shelf

185. *Trust fund for the purpose of facilitating the preparation of submissions to the Commission on the Limits of the Continental Shelf for developing States, in particular the least developed countries and small island developing States, and compliance with article 76 of the United Nations Convention on the Law of the Sea.* Twenty participants received assistance from this trust fund for the training course held in Buenos Aires from 8 to 12 May 2006 (see paras. 180 and 181 above). At the time of submission of this report, the Fund had assets of approximately $1 million.

[105] Additional information is available at www.gpa.unep.org/training/Calendar.html and www.gpa.unep.org/training/Deliveries.html.

186. *Trust fund for the purpose of defraying the cost of participation of the members of the Commission on the Limits of the Continental Shelf from developing States in the meetings of the Commission.* Ireland has pledged €150,000 for this trust fund, to be paid in three annual instalments. The first instalment of €50,000 has been received. At the time of submission of this report, the Fund had assets of approximately $82,000.

2. International Tribunal for the Law of the Sea Trust Fund

187. There was no activity related to this fund from January to July 2006. At the time of submission of this report, the Fund had assets of approximately $72,000.

3. Assistance fund under part VII of the 1995 Fish Stocks Agreement

188. The financial report on the status of the assistance fund under part VII of the Agreement presented to the Review Conference of the Agreement (A/CONF.210/2006/2) provided information on the status of the assistance fund. In addition to the two requests referred to in that report, 10 requests for financial assistance were made by developing States parties to enable them to participate in the Review Conference, in accordance with paragraph 14 (b) of the terms of reference for the assistance fund.[106]

189. A request for financial assistance was also submitted by the Executive Secretary of SEAFO, on behalf of Namibia and South Africa, in accordance with paragraphs 12 and 14 (a) of the terms of reference, to allow those States to participate in the meetings of subsidiary bodies and the annual meeting of the Commission of SEAFO scheduled in August, September and October 2006.

190. Pursuant to paragraph 22 of the terms of reference of the assistance fund, recipients of assistance are required to provide a report to FAO on the purpose and outcome of the approved expenditure. The United Nations and FAO are to share these reports. FAO has informed the Division that, at the time of submission of the present report, of the 10 States that were granted financial assistance to participate in the Review Conference, four have submitted the required report.[107] The funds advanced to one State had to be reimbursed to FAO for lack of travel to the Review Conference. At the time of submission of this report, the assistance fund had assets of approximately $352,000.

4. Voluntary trust fund for the purpose of assisting developing countries in attending meetings of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea

191. Representatives from the following 19 countries received assistance for the round-trip travel costs from their respective countries to attend the seventh meeting of the Consultative Process, in June 2006: Bahamas, Burkina Faso, Chile, Comoros, Indonesia, Kiribati, Maldives, Marshall Islands, Mauritius, Mongolia, Mozambique, Palau, Saint Lucia, Samoa, Sierra Leone, Suriname, Trinidad and Tobago, Tuvalu and Uruguay. The total expenditure from the fund during the first half of 2006

[106] Fiji, Guinea, Maldives, Marshall Islands, Mauritius, Namibia, Saint Lucia, Samoa, Senegal and Uruguay.

[107] Guinea, Marshall Islands, Namibia and Senegal.

amounted to $77,747. No contributions have been made thus far in 2006. At the time of submission of this report, the fund had assets of approximately $59,075.

192. During the seventh meeting of the Consultative Process, a number of delegations expressed concern regarding the fact that the trust fund covers the costs of an economy round-trip air ticket from the capital of the country of a representative to New York, but not per diem. Therefore, the question of covering the per diem of the nominated State representative might need to be clarified.

5. Trust fund for assistance to States participating in the Conference on Maritime Delimitation in the Caribbean

193. In September 2005, Mexico made a contribution of $50,000 to the trust fund. As at 31 December 2005, $39,126 had been disbursed in relation to the travel of 19 participants from 10 participating States to the third session of the Conference in September 2005, and $3,521 had been used to provide other assistance to a participating State. At the time of submission of the present report, the fund had assets of approximately $122,706.

XIV. International cooperation and coordination

A. United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea

194. The seventh meeting of the Consultative Process, chaired jointly by Cristián Maquieira (Chile) and Lori Ridgeway (Canada), was held from 12 to 16 June 2006. It focused its deliberations on ecosystems approaches and oceans. The report on the meeting, contained in document A/61/156, is divided into three parts. Part A contains agreed consensual elements relating to ecosystem approaches and oceans to be suggested to the General Assembly for consideration at its sixty-first session. Part B contains the chairpersons' summary of the discussions held during the seventh meeting. Part C contains information on additional issues proposed for inclusion in the list of issues that could benefit from attention in the future work of the General Assembly on oceans and the law of the sea. The panel presentations on ecosystem approaches and oceans that were made at the seventh meeting are available on the website.[108]

B. Regular process for global reporting and the assessment of the state of the marine environment, including socio-economic aspects

195. Preparations have begun for the start-up phase of the regular process, the "assessment of assessments", in accordance with General Assembly resolution 60/30 under the leadership of UNEP and IOC. The first meeting of the ad hoc steering group co-chaired by Mexico and Australia, was held from 7 to 9 June 2006. All decisions reached at the meeting were by consensus.[109]

[108] See www.un.org/Depts/los/consultative_process/consultative_process.htm.

[109] See report of the first meeting of the ad hoc steering group at www.unep.org/DEWA/assessments.

196. All United Nations bodies and related organizations invited to participate in the ad hoc steering group (FAO, IMO, IOC, UNEP, WMO and the International Seabed Authority) were present at the first meeting. The meeting considered criteria for the appointment of the group of experts (i.e., regional representation) and the preparation of the "assessment of assessments". In that regard, the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection indicated that it was prepared to provide experts to review the updated survey on regional and global marine assessments by the UNEP World Conservation Monitoring Centre and to organize a workshop in London to that effect in September 2006. The rules regarding the participation of observers were also discussed since both lead agencies had received queries from intergovernmental organizations and non-governmental organizations regarding their participation in future meetings of the ad hoc steering group. It was decided that the lead agencies would prepare a list of observers for approval by the ad hoc steering group. The next meeting will be held three days prior to the eighth meeting of the Consultative Process in 2007, contingent upon timely financing. Two agenda items will be the nomination of representatives to the ad hoc steering group by regional groups and the mobilization of resources.

C. Oceans and Coastal Areas Network

197. The Oceans and Coastal Areas Network (UN-Oceans), the inter-secretariat mechanism for the coordination of United Nations activities related to oceans and coastal areas established in October 2003 by the United Nations System Chief Executives Board for Coordination, held its fourth meeting on 9 June 2006.[119] As agreed at the first UN-Oceans meeting, the Division, as the organizing secretariat, provided secretariat services for the fourth meeting.

198. UN-Oceans has been pursuing its coordination work through task forces on (a) post-tsunami response; (b) the regular process for the global reporting and assessment of the state of the marine environment, including socio-economic aspects; (c) biodiversity in marine areas beyond national jurisdiction; and (d) the second intergovernmental review of the Global Programme of Action. The post-tsunami task force members contributed to the IOC international coordination meeting for the development of a tsunami warning and mitigation system in the Indian Ocean, held in Paris in March 2005, and identified specific areas of expertise to advance the implementation of such a warning system. Moreover, under the leadership of the Global Programme of Action and the World Bank, the post-tsunami task force developed "Twelve guiding principles for charting environmentally sound coastal rehabilitation", initially presented to Governments at a UNEP meeting in Cairo in 2005. The guiding principles are being further refined and will be published by UNEP with case studies for review by the affected countries and international organizations in 2006.

199. Inasmuch as UN-Oceans task forces are ad hoc and time-bound, it was decided to discontinue the task force on post-tsunami response, especially since post-tsunami response work was being carried out by the Office for the Coordination of Humanitarian Affairs, the International Strategy for Disaster Reduction and WMO. Similarly, it was decided to discontinue the task force on the regular process since General Assembly resolution 60/30, which had launched the start-up phase, the

[119] See UN-Oceans website at www.oceansatlas.org.

"assessment of assessments" with a two-year time frame, had designated IOC and UNEP as the lead agencies of the regular process. Accordingly, there did not appear to be a need for the continuation of the task force, which would duplicate the work of the secretariats of the lead agencies.

200. At the fourth meeting of UN-Oceans, the members of UN-Oceans agreed to the proposal for the Division for Ocean Affairs and the Law of the Sea and the secretariat of the Convention on Biological Diversity UN-Oceans task force on marine biodiversity beyond national jurisdiction. The Division would coordinate the work relating to the tools available within the international and regional legal regimes for the conservation and sustainable use of biodiversity, while the secretariat of the Convention on Biological Diversity would continue to coordinate the work relating to the global distribution of biodiversity (including genetic resources) in marine areas beyond national jurisdiction, as the status of that biodiversity and the threats that it is under.

201. As for the United Nations Atlas of the Oceans, it had been developed and maintained under the supervision and editorial responsibility of UN-Oceans, with FAO as the project director. The project had received financial support (a United Nations Foundation grant) and contributions in kind from a core group of United Nations entities and from the United States National Oceanic and Atmospheric Administration and other national partners. However, the funds had been exhausted more than a year earlier and appeals from FAO for financial contributions had largely failed. FAO made clear at the fourth meeting that without a minimum cost-sharing arrangement by the United Nations system, the future of the Atlas was in doubt. As the Chief Executives Board's High Level Committee on Programmes was planning to review the work of UN-Oceans, it was agreed to seek the Committee's support, in particular, for the Atlas. The High Level Committee on Programmes commended UN-Oceans for the Atlas and strongly urged that the initiative be financially supported to ensure its continuation. The Chairman of the Committee agreed to bring the issue of funding for the Atlas to the attention of the Chief Executives Board, which met on 7 April 2006 in Madrid under the chairmanship of the Secretary-General. The conclusions of the Board noted "a very positive assessment" by the Committee of the work of UN-Oceans and the United Nations Atlas of the Oceans and invited all concerned agencies and organizations to provide financial support by the end of 2006. FAO emphasized that without substantial financial support the Atlas would close in early 2007.

XV. Indian Ocean tsunami: new developments

202. On 17 July 2006, a 7.7 magnitude earthquake in the Indian Ocean generated waves four metres high that devastated parts of the Java coast in Indonesia. The Pangandaran area in West Java is where most of the destruction was registered. At 20 July 2006, the death toll was estimated at 400 people, with hundreds more injured. About 40,000 people had abandoned their homes, which were destroyed, and taken refuge on higher ground. Hotels all along the shoreline were ruined and some 2,600 fishing boats were missing.[111] The July 2006 tsunami was the latest to

[111] "Java tsunami leaves 570 people missing or dead", Environment News Service, 20 July 2006; Peter Gelling, "As tsunami death toll near 400, Indonesians flee to hills in fear of another giant wave", *The New York Times*, 19 July 2006.

hit the Indian Ocean following the devastating one in December 2004, which flooded vast expanses of coastal areas in countries all around the Indian Ocean rim,[112] from Indonesia to Somalia (see A/60/63 and Add.2). The Indian Ocean Tsunami Warning System constitutes a vital component of a global warning system, towards which the UNESCO group has been working.

XVI. Conclusions

203. The information in the present report, which supplements the main report, clearly indicates that oceans and the law of the sea have become increasingly important for the international community. Perhaps most importantly, an enhanced focus on the oceans is essential to achieve the goal of sustainable development. With oceans constituting some 70 per cent of the Earth's surface and supporting the overwhelming majority of its biological resources, the conservation and sustainable use of these resources is seen as vital for the future of humankind. Scientific research has increased our understanding of marine ecosystems and the human activities that affect them. At various oceans-related meetings over the past year, States have discussed the need to manage the oceans in a more systematic and integrated way, in accordance with policies that move beyond sectoral management to integrate diverse uses of the oceans across different sectors, balancing social, economic and environmental concerns through integrated planning processes. A cross-sectoral approach is therefore necessary at all levels — national, regional and global — as is increased international cooperation and coordination.

[112] For details on the earthquake that generated the December tsunami, see the publication "Blue Earth", Special issue No. 1, 2006, Japan Agency for Marine-Earth Science and Technology.